

i. The retirement system of which the person is a member, or was a member in the case of a retired person; or

ii. The Division of Pensions in the case of a former member of a State-administered retirement system who is not retired or is not a current member.

8. The contributions required to obtain the service credit shall be based upon the person's salary and full percentage contribution rate at the time of return to employment.

9. The contributions required to obtain the service credit may be paid by any method authorized for purchases of service credit under the retirement system.

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

New Rule, R.1987 d.198, effective May 4, 1987.  
See: 19 N.J.R. 353(b), 19 N.J.R. 772(b).

#### **17:1-4.37 Ordinary disability applications; medical examinations**

(a) Applicants for ordinary disability retirement shall submit with their applications all the medical information they can supply relative to their disability, including reports of their personal physicians and consulting physicians, hospital records, diagnostic test results, and any other medical information which would assist the Medical Review Board and the board or commission of the retirement system in determining eligibility of the applicants for disability retirement. The Disability Review Section shall forward the applications and the accompanying medical information to the Medical Review Board.

(b) If the medical information supplied by the applicant is sufficient for the Medical Review Board to make a medical recommendation, it shall return the case to the Disability Review Section with its recommendation. If the Medical Review Board deems that the medical information supplied by the applicant is not sufficient for it to make a medical recommendation, it shall advise the Disability Review Section to arrange to have the applicant examined by a physician or physicians under contract with the Division of Pensions to perform disability examinations, or to obtain additional information needed to make its medical recommendation.

(c) The board or commission which governs the pension fund or retirement system may request that an applicant be examined or reexamined by a physician or physicians under contract with the Division of Pensions, or that additional information be obtained, if it deems that the medical information available is insufficient to make a decision on the eligibility of the applicant for ordinary disability retirement.

New Rule, R.1988 d.231, effective June 6, 1988.

See: 20 N.J.R. 231(a), 20 N.J.R. 1286(b).

#### **17:1-4.38 Compensation limit for exclusion from membership after retirement**

Beginning with the calendar year 1999, and for any calendar year thereafter, the Director of the Division of Pensions and Benefits may adjust the compensation limit for exclusion from membership after retirement. The compensation limit shall be adjusted by increments of \$1,000, when \$10,000 increased by  $\frac{3}{8}$  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 1997 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.

New Rule, R.1998 d.242, effective May 18, 1998.  
See: 30 N.J.R. 1024(a), 30 N.J.R. 1847(c).

#### **17:1-4.39 Workers' compensation: employer's obligation regarding employee contributions**

(a) An employer is responsible for the payment of an employee's pension contributions while the employee is receiving periodic temporary disability benefits through workers' compensation in lieu of pay.

(b) An employer is responsible for the payment of an employee's pension contributions while the employee is receiving a periodic award of permanent disability benefits through workers' compensation without pay if:

1. The employee is unable to perform the job functions of the former position;
2. The employee is either forced to resign, or is terminated due to the employee's inability to perform the job functions of the former position; and
3. The employee does not have sufficient credited service to be eligible to receive an ordinary disability retirement allowance.

(c) An employer is not responsible for the payment of an employee's pension contributions while the employee is receiving a periodic award of permanent disability benefits through workers' compensation without pay if:

1. The employee has sufficient credited service to be eligible to receive an ordinary disability retirement allowance;
2. The employee voluntarily resigns from the employment; or
3. The employee is terminated by the employer for reasons unrelated to a workers' compensation award.

(d) If an employer ceases payment of employee pension contributions due to the reasons listed in (c)2 or 3 above, the employer shall notify the Division of Pensions and Benefits in writing of the reasons for the cessation of payments.

New Rule, R.1999 d.109, effective April 5, 1999.  
See: 31 N.J.R. 265(a), 31 N.J.R. 892(b).

As amended, R.1969 d.34, effective December 19, 1969.  
See: 1 N.J.R. 10(a), 2 N.J.R. 7(a).

## SUBCHAPTER 5. HEARINGS

### 17:1-5.1 Hearing request

(a) The division, board or commission shall cause to be given to the applicant written notice of its decision. Said notice shall inform the applicant of his or her right to request a hearing in the event the applicant disagrees with the decision of the agency and the manner in which such request must be made.

(b) The decision by the agency shall be final unless the applicant shall file a request for a hearing within 45 days after the date of the written notice of the decision.

(c) Administrative hearings will be conducted by the Office of Administrative Law pursuant to the provisions of N.J.S.A. 52:14B-1 et seq. and N.J.A.C. 1:1.1.

As amended, R.1982 d.491, effective January 17, 1983.  
See: 14 N.J.R. 1290(a), 15 N.J.R. 95(b).

Hearings conducted by Office of Administrative Law.

#### Case Notes

Policeman was not entitled to reopen denied application for accidental disability retirement benefits. *Obsuth v. Board of Trustees of the Police and Firemen's Retirement System*, 93 N.J.A.R.2d (TYP) 175.

### 17:1-5.2 through 17:1-5.6 (Reserved)

R.1982 d.491, effective January 17, 1983.  
See: 14 N.J.R. 1290(a), 15 N.J.R. 95(b).  
Deleted sections.

## SUBCHAPTER 6. (RESERVED)

#### Authority

Unless otherwise expressly noted, all provisions of this subchapter concerning the judicial Pension Fund were rescinded pursuant to authority of N.J.S.A. 52:18A-95 et seq. and such recession was filed and effective September 12, 1973, as R.1973 d.258. See: 5 N.J.R. 292(d), 5 N.J.R. 358(b).

## SUBCHAPTER 7. PENSION ADJUSTMENT PROGRAM

### 17:1-7.1 Employer payments; multiple enrollees

The liability of the several employers in the case of multiple enrollees (a pensioner receiving benefits from a retirement system on the basis of several positions covered by the same system) will be prorated on the basis of the final salaries reported to the system prior to retirement.

### 17:1-7.2 Employer payments; delinquencies

(a) The division will inform all retirants and beneficiaries of the reason for the suspension of payments.

(b) Retroactive adjustments will be made once the employer's appropriation has been paid.

As amended, R.1976 d.212, effective July 2, 1976.  
See: 8 N.J.R. 312(d), 8 N.J.R. 407(b).

### 17:1-7.3 Administration fees; investment earnings

(a) The certification by the Director of the Division of Pensions of the amounts payable by local employers shall include an administrative fee to reimburse the State for the cost of administering the Pension Adjustment Program on behalf of their employees. The fee shall be \$1.00 per pensioner or beneficiary.

(b) Administrative fees, assessable to local employers participating in the Pension Adjustment Program, will be recovered from investment earnings on contributions as long as such earnings exceed the fees assessable. Employers will be billed for the difference whenever the investment earnings are less than the administrative fees assessed.

(c) Excess earnings, remaining after the recovery of the assessment of the administrative fees, shall be transferred to the State of New Jersey—General Fund.

As amended, R.1971 d.16, effective February 1, 1971.

See: 3 N.J.R. 11(b), 3 N.J.R. 52(a).

As amended, R.1978 d.421, effective December 12, 1978.

See: 10 N.J.R. 516(a), 11 N.J.R. 52(a).

As amended, R.1981 d.291, effective August 6, 1981.

See: 13 N.J.R. 374(e), 13 N.J.R. 525(a).

Rule concerning administration fees and investment earnings replaces "Reserved" section.

### 17:1-7.4 Return to public employment; pension adjustments

(a) When a retiree returns to public employment to a position covered by the same retirement system from which he or she retired and subsequently retires from the post-retirement employment, each retirement will be treated separately for pension adjustment purposes.

(b) The benefit year for each retirement will be the initial year in which the retirement is effective and the member shall satisfy the 24 month waiting period for each retirement before the pension adjustment benefits may be received for that retirement.

(c) If a member was receiving pension adjustment benefits at the time that the initial retirement was cancelled due to the post-retirement employment, he or she shall begin to receive pension adjustment benefits based upon the initial retirement immediately upon the reinstatement of the initial retirement.

As amended, R.1971 d.16, effective February 1, 1971.  
See: 3 N.J.R. 11(b), 3 N.J.R. 52(a).  
New Rule, R.1987 d.128, effective March 16, 1987.  
See: 19 N.J.R. 51(b), 19 N.J.R. 456(b).

**17:1-7.5 (Reserved)**

As amended, R.1971 d.16, effective February 1, 1971.  
See: 3 N.J.R. 11(b), 3 N.J.R. 52(a).

**17:1-7.6 Waiver**

(a) Application for waiver in whole or part by a retirant or beneficiary who is eligible to receive the increased allowance shall be made at least 30 days prior to the desired effective date on a form prescribed by the Division of Pensions and shall be effective on the first day of a subsequent month.

(b) A waived benefit may be reinstated by application to the Division of Pensions at least 30 days prior to the reinstatement date and shall be effective on the first of a subsequent month.

As amended, R.1969 d.34, effective December 19, 1969.  
See: 1 N.J.R. 10(a), 2 N.J.R. 7(a).

**17:1-7.7 Accrued increase; limitations**

Upon the death of a retirant or a beneficiary receiving a pension, any payments which were due to the deceased shall be paid to a named beneficiary as established in the records of the State-administered retirement system, or if none is named, to the deceased's estate.

As amended, R.1969 d.34, effective December 19, 1969.  
See: 1 N.J.R. 10(a), 2 N.J.R. 7(a).

**17:1-7.8 Employer payments**

The employers shall review the detailed tabulations of retirants and beneficiaries provided with the invoice for

employer liability submitted by the Division of Pensions and shall report any corrections or revisions within 60 days of receipt of the invoice, otherwise invoices must be paid as submitted.

**SUBCHAPTER 8. SOCIAL SECURITY****17:1-8.1 (Reserved)**

Repealed by R.1981 d.1, effective January 2, 1981.  
See: 12 N.J.R. 727(c), 13 N.J.R. 111(c).  
Section was "Director's responsibility".

**17:1-8.2 Records**

(a) The records of the State Agency for Social Security are public records and may be inspected during regular business hours at the office of Chief of the Bureau of Contribution Accounting under the supervision of the chief or other representative of the office.

(b) Records are considered confidential where no official purpose or reason for inspection is indicated.

**17:1-8.3 Social Security referendum**

(a) As the provisions of P.L. 1956, c.169, contemplate the termination of an entire pension fund and the transfer of its assets, liabilities and membership to the Public Employees' Retirement System upon a successful referendum on the issue of Social Security coverage by a majority vote, when the referendum involves the use of a divided system approach in accordance with the provisions of P.L. 1980, c.86, all of the provisions of P.L. 1956, c.169, shall apply except on a pro rata basis.