

full-time employee. The accredited evening high schools were Camden, East Orange, Newark, Bayonne, Jersey City, Trenton, Woodbridge, Asbury Park, Morristown, and the Belleville Cerebral Palsy Center.

(e) N.J.S.A. 18A:66-2(p) specifically excludes substitute teachers from enrollment in the Fund. The statute also permits the Board to determine whether any person is a teacher as defined in this article. The following positions have been determined by the Board to be ineligible for enrollment in the Fund:

1. Substitute and replacement teacher positions;
2. Permanent or long term substitute positions; and
3. Independent contractors and consultants.

(f) As of January 20, 2004, new part-time instructors employed at postsecondary vocational-technical schools are ineligible for enrollment in the Fund. Part time instructors at postsecondary vocational-technical schools who were members of the Fund, as of January 19, 2004, are "grandfathered" in their positions with postsecondary vocational-technical schools, as long as they remain with their current employers.

(g) Pursuant to the provisions of N.J.S.A. 18A:66-4, for individuals who became members of TPAF on or after November 2, 2008, the \$7,500 minimum annual base salary for participation in the retirement system shall be adjusted annually by the Director of the Division in accordance with changes in the Consumer Price Index, but by no more than four percent. For the calendar year beginning January 1, 2010, the minimum base annual salary required for enrollment will be adjusted annually to reflect increases in the Consumer Price Index. For purposes of this calculation, "Consumer Price Index" means the average of the annual increase in the consumer price index for all urban consumers, not seasonally adjusted for all items, in the New York City and Philadelphia metropolitan statistical areas during the preceding calendar year as reported by the United States Department of Labor, Bureau of Labor Statistics.

1. The adjustment factor for a calendar year shall be calculated as a fraction, pursuant to the following:

- i. The numerator shall be the annual Consumer Price Index for all urban consumers in the New York City metropolitan statistical area for the calendar year ending December 31 of the first year preceding the July 1 calculation date, plus the annual Consumer Price Index for all urban consumers in the Philadelphia metropolitan statistical area for the same time period; and
- ii. The denominator shall be the annual Consumer Price Index for all urban consumers in the New York City metropolitan statistical area for the calendar year ending December 31 of the second year preceding the July 1 calculation date, plus the annual Consumer Price Index for all urban consumers in the Philadelphia metropolitan statistical area for the same time period.

2. If the value of the calculation in (g)1 above is less than zero for a calendar year, then the adjustment factor for the calendar year shall be equal to zero. If the value of that fraction is greater than 1.04 for a calendar year then the adjustment factor for the calendar year shall be equal to 1.04.

3. The adjustment shall be calculated on or about July 1 each calendar year to become effective on January 1 of the subsequent calendar year.

4. Increases in the minimum annual base salary shall be made in multiples of \$100.00, except that any increase, which is not a multiple of \$100.00 will be rounded to the next lowest multiple of \$100.00. Each annual adjustment shall not be more than four percent when compared to the preceding year's minimum annual base salary.

(h) The calculation and any needed adjustment pursuant to (g) above shall be published via a notice of administrative change in the New Jersey Register revising the minimum annual base salary.

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.1979 d.205, effective May 22, 1979.

See: 11 N.J.R. 208(a), 11 N.J.R. 359(a).

As amended, R.1980 d.103, effective March 5, 1980.

See: 12 N.J.R. 55(b), 12 N.J.R. 224(e).

As amended, R.1983 d.484, effective November 7, 1983.

See: 15 N.J.R. 1360(b), 15 N.J.R. 1871(a).

Assistant principal added to list of position.

Amended by R.1985 d.658, effective January 6, 1986.

See: 17 N.J.R. 2238(b), 18 N.J.R. 93(c).

(b)1 deleted text "serving under a contract not conditioned by the continuance of Federal funding;"

Repeal and New Rule, R.2002 d.352, effective November 4, 2002.

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

Section was "Eligible positions".

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, substituted "Examiners, pursuant to N.J.S.A. 18A:6-34 et seq. and N.J.A.C. 6A:9" for "Education"; in (b), substituted "Examiners, pursuant to N.J.S.A. 18A:6-34 et seq. and N.J.A.C. 6A:9," for "Education"; in (e), deleted "of Trustees" following "permits the Board"; and added (f).

Amended by R.2009 d.253, effective August 17, 2009.

See: 41 N.J.R. 1713(a), 41 N.J.R. 3111(a).

In the introductory paragraph of (a), deleted a comma following "education"; in (a)3, substituted "Prior to November 2, 2008, the" for "The"; and added (g) and (h).

Public Notice: August 28, 2009 Increase in the Minimum Annual Base Salary for Participation in the Teachers' Pension and Annuity Fund.

See: 41 N.J.R. 3863(b).

Case Notes

Substitute teacher was temporary employee within meaning of statutory amendment including temporary public employees in retirement system. *Schulaner v. Board of Trustees*, 92 N.J.A.R.2d (TYP) 55.

Director of Community Adult Education and Principal of Adult High School held not eligible for pension fund membership as positions were not included in statutory definition of teacher (Board's Final Decision). *Carrea v. Bd. of Trustees, Teachers' Pension and Annuity Fund*, 5 N.J.A.R. 419 (1979), reversed per curiam Docket No. A-506-79 (App.Div.1980).

17:3-2.2 Documentation required

If a person is appointed to a position, which does not meet the eligibility requirements for membership in the Fund as specified in N.J.A.C. 17:3-2.1, the position shall be referred to the Board for their determination as to the person's eligibility for participation in the Fund. In order to determine such person's eligibility for enrollment, the employer shall be required to support the enrollment application with a statement setting forth the duties, qualifications, tenure rights and State Board of Examiners' Certification requirements of the position.

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

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

Rewrote the section.

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

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

Inserted a comma following the first occurrence of "position", deleted "of Trustees" following "referred to the Board" and inserted "of Examiners".

Case Notes

Director of Community Adult Education and Principal of Adult High School held not eligible for pension fund membership as positions were not included in statutory definition of teacher (Board's Final Decision). *Carrea v. Bd. of Trustees, Teachers' Pension and Annuity Fund*, 5 N.J.A.R. 419 (1979), reversed per curiam Docket No. A-506-79 (App.Div.1980).

17:3-2.3 Multiple enrollees

A "teacher" employed in two or more positions that meet the eligibility requirements for enrollment in the Fund as stated in N.J.A.C. 17:3-2.1 must enroll in the Fund through each of the positions.

Repeal and New Rule, R.2002 d.352, effective November 4, 2002.

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

Section was "Full-Time".

Case Notes

Part-time (three days per week) school social worker performing all duties of position while at work, with another part-time employee performing duties at other times, held not eligible for pension fund membership, in furtherance of the Fund's establishment to benefit "career" rather than part-time teachers. *Caplan v. Bd. of Trustees, Teachers' Pension and Annuity Fund*, 3 N.J.A.R. 129 (1981).

17:3-2.4 Emergency or provisional certificate

(a) Any teacher employed under an emergency or provisional certificate, who is appointed to a regular full-time or part-time position under contract, shall be eligible for enrollment as of the date of employment.

(b) In the event a teacher does not qualify for a regular teaching certificate before the emergency or provisional certificate expires and such teacher is continued in employment as a substitute or temporary employee, such member:

1. Will not be permitted to make contributions to the Fund while employed in a substitute or temporary status;

2. Will be permitted to retain inactive membership for a period not in excess of two years;

3. Will be permitted to purchase credit for the period of substitute service as may be provided by statute.

4. Will not be covered for either the non-contributory or contributory insurance during the period of substitute service, in which event such member may exercise group life insurance conversion rights.

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).

In (a), added "or part-time" following "full-time"; in (b), deleted gender references throughout.

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

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

In (b)1, substituted "Fund" for "fund".

17:3-2.5 Janitors

Any janitorial employee who was enrolled prior to August 1, 1966 shall be eligible to continue membership until such membership terminates.

17:3-2.6 (Reserved)

Repealed by R.2003 d.438, effective November 3, 2003.

See: 35 N.J.R. 2585(a), 35 N.J.R. 5148(a).

Section was "Ineligible positions; interim appointment to Boards of Education for those not covered by the provisions of P.L. 2001, c.355 (N.J.S.A. 18A:66-53.2b)".

17:3-2.7 Enrollment following deferred retirement

(a) The membership account under which a member elected deferred retirement, who resumes regular service prior to age 60, shall be reinstated.

(b) If the member returned to employment prior to July 1, 1995, the member shall be assigned the original rate of contribution if the member resumes service before a period of two years has elapsed since the member last made a contribution to the account.

(c) If there has been a lapse of more than two years, a commuted rate shall be assigned. Such commuted rate of contribution shall be determined by adding the lapsed period to the member's age as of the date of original enrollment.

(d) Members who return to employment after July 1, 1995 shall be assigned the flat contribution rate in effect at the time of their return to employment.

As amended, R.1980 d.103, effective March 5, 1980.

See: 12 N.J.R. 55(b), 12 N.J.R. 224(e).

New Rule, R.2002 d.352, effective November 4, 2002.

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

Rewrote the section.