

(c) For local employers not covered by civil service, a regular appointment shall constitute the date the employee originally accepted employment in a regular budgeted position.

1. For local employers not covered by civil service who report on a monthly basis, the compulsory enrollment date shall be fixed as the first of the month of hire for an employee whose beginning employment date falls between the first through 16th of the month and the compulsory enrollment date shall be fixed as the first of the following month for an employee whose beginning employment date falls between the 17th and the end of the month.

2. For local employers not covered by civil service who report on a biweekly basis, the compulsory enrollment date shall be fixed as the first day of the pay period of hire for an employee whose date of hire falls on the first through seventh day of the biweekly pay period. The compulsory enrollment date shall be fixed as the first day of the following biweekly pay period for an employee whose date of hire falls on any subsequent date within that pay period.

(d) An employee of a civil service employer who is not permanent in a classified position or an employee of a non-civil service employer who is not in a regular budgeted position may be considered a temporary employee by the 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.

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.

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 $3\frac{1}{2}$ 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

Eligible survivors shall become entitled to benefits on the first 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.

17:4-3.5 Beneficiary designation; pension contributions

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

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.

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 service and is included in the member's base salary upon attainment of a specified number of years of service.

(b) The Board may question the compensation of any member or retiree to determine its credibility where there is evidence that compensation reported as base salary may include extra compensation.

(c) Extra compensation shall not be considered creditable for benefits and all employee contributions made thereon shall be returned without interest.

(d) With respect to all claims for benefits, the Division of Pensions and Benefits shall investigate increases in compensation reported for credit which exceed reasonably anticipated annual compensation increases for members of the retirement system based upon consideration of the Consumer Price Index for the time period of the increases, the table of assumed salary increases recommended by the actuary and adopted by the Board, and the annual percentage increases of salaries as indicated in data from the Public Employment Relations Commission, or through other reliable industry sources of information regarding average annual salary increases. Those cases where a violation of the statute or rules is suspected shall be referred to the Board.

(e) In connection with an investigation of an increase in compensation, the Board:

1. May require that a notarized statement under oath be obtained from the member's employer that the reported compensation was not granted primarily in anticipation of retirement, and conforms with the statutes and rules governing the retirement system;

2. May require an employer to provide any record or information it deems necessary for the investigation, including, but not limited to, collective bargaining agreements, employment contracts, ordinances, resolutions, minutes of public meetings (closed or open), or any other record or information related to the increase in compensation; and

3. May refer any suspected submission of false information in violation of N.J.S.A. 43:16A-18, these rules, or other laws of the State of New Jersey to the Attorney General for review and initiation of criminal proceedings, if warranted.

(f) Failure to satisfactorily respond to a request by the Board for documents or information related to an increase in compensation may result in the denial of credit for the increase in compensation.

(g) A determination by the Board that a member's compensation for pension purposes includes extra compensation may result in:

1. A denial of credit for the extra compensation;
2. An audit of the retirees and the active employees of the employer to identify any additional cases of such extra compensation;
3. A return of contributions to the active members and retirees on the extra compensation without interest;
4. A recalculation of the retirement benefits of retirees to eliminate benefits based upon the extra compensation; and
5. Repayment to the system by the retiree of any benefits received based upon the extra compensation.

(h) Employer contributions shall not be revised or refunded because of a determination by the Board that a denial of credit for increases in compensation is warranted under this section.

(i) This section shall not be applicable to longevity pay, holiday pay, or education pay which is included in the creditable compensation of a retiree or member on a mandatory basis in accordance with the provisions of a collective negotiations agreement or employment policy of an employer approved and executed on or before January 1, 2000, until the termination date of the collective negotiations agreement or employment policy, or December 31, 2001, whichever occurs first.

Repeal and New Rule, R.2000 d.141, effective April 3, 2000.

See: 31 N.J.R. 3930(a), 32 N.J.R. 1246(a).

Section was "Creditable salary".

17:4-4.2 Prior service

(a) Any period of prior service credit paid for by an employer at the adoption of the system will reflect identical credit when calculating membership credit.

(b) Prior service credits are limited to service rendered on a full-time basis.

17:4-4.3 Continuance of membership; transfer

Once an employee establishes membership in the retirement system, the member is eligible to continue such membership should the member be temporarily employed in a position covered by the system.

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

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

Created gender neutral references.

17:4-4.4 Loan tolerance

Interest will be calculated on a periodic basis on the unpaid loan balance. If scheduled payments are not paid timely, interest will be accrued and added to the remaining

outstanding loan balance. If, at the end of the loan schedule, there is a balance of less than \$10.00, it will be written off. If the balance is equal to or greater than \$10.00, the member will be assessed.

17:4-4.5 Deductions

(a) A full deduction shall be taken for the Police and Firemen's Retirement System in any payroll period in which the member is paid a sufficient amount to make a full normal deduction. If wages are sufficient, deductions should also be made for any arrears or loan deductions then in effect.

(b) No deductions shall be taken in any pay period in which the employee's salary is not sufficient to cover the required deductions for the Police and Firemen's 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).

Substituted ". If wages are sufficient, deductions should also be made for any" for ", plus any other" following "full normal deduction".

17:4-4.6 Minimum adjustment

In order to facilitate the reconciliation of a member's account, no rebates or additional contributions shall be made where an adjustment involves an amount of \$2.00 or less during a calendar quarter.

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

Substituted "\$2.00" for "\$3.00" following "involves an amount of" and inserted "during a calendar quarter" following "or less".

17:4-4.7 Suspension

(a) A member suspended without pay will have insurance coverage continued for a period of 93 days following the effective date of such suspension.

(b) No deductions will be made during such a break in service, nor will any service credit accrue.

(c) If during the period of suspension or at the conclusion of the penalty period adjustment is made in favor of the member, the Board may allow the payment of pension deductions to reflect the lesser penalty or the elimination of the entire suspension.

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), substituted "deductions" for "retirement deductions" and substituted "service credit" for "retirement credit".

17:4-4.8 (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 "Military leave".

17:4-4.9 Eligibility for loan

Only active contributing members of the System may exercise the privilege of obtaining a loan. The member's total outstanding loan balance shall not exceed 50 percent of the accumulated deductions posted to the member's account.

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.

17:4-4.10 Termination; withdrawal

(a) Under the terms of the statutes, a member may withdraw from the System only if the member terminates all employment.

(b) 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 subject to coverage;

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; or

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

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

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

Created gender neutral references throughout.

17:4-4.11 Active employment; membership requirement

All employees, otherwise eligible, who are not actively employed on the date of their enrollment, will not be covered by the group life insurance program until the day they return to service.

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

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

Added "the day" preceding "they return to service."

SUBCHAPTER 5. PURCHASES AND ELIGIBLE SERVICE

17:4-5.1 Eligibility for purchase

(a) Only active members of the System shall be eligible to make application for the purchase of credit. Active members who are not currently contributing to the Retirement System must purchase their requested service in a lump sum.

(b) In order to be eligible to purchase service, a member must submit a written request to purchase such service and such purchase must be authorized by the member before the expiration date indicated on the quotation letter.

(c) The receipt of a public pension or retirement benefit is expressly conditioned upon the rendering of honorable service by a public officer or employee. Therefore, the Board of Trustees shall disallow the purchase of all or a portion of former service it deems to be dishonorable in accordance with N.J.S.A. 43:1-3.

Amended by R.2000 d.294, effective July 17, 2000.

See: 32 N.J.R. 1321(a), 32 N.J.R. 2600(a).

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

17:4-5.2 (Reserved)

17:4-5.3 Optional purchases of eligible service

(a) A shared-cost purchase is one in which the member pays only the employee's share and not the employer's share of the purchase. A member may purchase all or a portion of such eligible service. A shared-cost purchase will be calculated on the basis of the actuarial purchase factor established for the member's age at the time of the purchase request times the higher of either the member's current annual base salary or highest fiscal year base salary. The following types of purchases are shared-cost purchases:

1. Former membership credit with a State-administered retirement system;
2. Former service with any other employer that was not certified for membership but which would have qualified on an optional or compulsory basis at the time the service was rendered;
3. Continuous temporary service as a police officer or firefighter immediately preceding enrollment. "Special Police" service cannot be purchased;
4. Leaves of absence without pay:
 - i. The period of the leave for personal reasons which does not exceed 93 days. Childcare is considered leave for personal reasons.
 - ii. The period of the leave up to two years for personal illness. The Division may require proof that the illness existed for the length of the leave.
5. Eligible out-of-State public employment, up to a total purchase of 10 years. Out-of-State service cannot be used to qualify for an ordinary disability retirement.

(b) The types of purchases indicated in (b)1 through 5 below are considered to be full-cost purchases. A member may purchase all or a portion of such eligible service. The lump sum purchase cost shall be calculated on the basis of the actuarial purchase factor established for the member's nearest age at the time of the purchase request times the higher of either the member's current annual base salary or highest fiscal year base salary. The computed lump sum

purchase cost shall then be doubled to establish the full cost to the member. This cost is calculated in this manner as N.J.S.A. 43:16A-11.9, 11.11 and 11.12 provide that the employer shall not be liable for any costs of purchasing this service; therefore the member must pay both the employee and employer share.

1. Active duty military service prior to enrollment. Military service before enrollment cannot be used to qualify for an ordinary disability retirement;

2. Employment with the Federal government. United States government service cannot be used to qualify for an ordinary disability retirement;

3. Service established under a local municipal or county retirement system within the State of New Jersey;

4. Up to three years of service established for certain periods of employment with public agencies or private non-profit agencies pursuant to N.J.S.A. 43:16A-11.9;

5. Up to three years of service credit for police officer members who were laid off in good standing and not by removal for cause or charges of misconduct or delinquency from employment as police officers and subsequently rehired in PFRS police service positions in accordance with P.L. 1999, c.338, N.J.S.A. 43:16A-11.13. The purchase cost is based on the actuarial purchase factor established for the member's nearest age at the time of the purchase request and the member's salary during the 12 months preceding the layoff. The computed lump sum purchase cost will then be doubled to establish the full cost to the member.

(c) A member shall be eligible to purchase an aggregate of up to 10 years of out-of-State public employment, military service and Federal employment provided that the member is not receiving nor is entitled to receive a retirement allowance for such service from any other public retirement system and provides proof to the Division of Pensions and Benefits that the member has withdrawn from such other system. A qualified veteran shall be eligible to purchase an additional five years of military service rendered during periods of war for an aggregate of 15 years of such service.

Repeal and New Rule, R.2000 d.294, effective July 17, 2000.

See: 32 N.J.R. 1321(a), 32 N.J.R. 2600(a).

Section was "Optional purchases of eligible service".

17:4-5.4 Methods of repayment

(a) Methods of repayment include:

1. Lump sum;
2. Partial lump sum of \$250.00 or more; 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. Extra payroll deductions will include regular interest for the term of the installment.

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, an application for 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.

(e) If a member's previous retirement allowance has been cancelled due to the member's return to employment and reenrollment 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.

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; death prior thereto

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.

17:4-6.3 Effective dates; changes

(a) 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.