

CHAPTER 3

TEACHERS' PENSION AND ANNUITY FUND

Authority

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

Source and Effective Date

R.1998 d.578, effective November 13, 1998.
See: 30 N.J.R. 3376(a), 30 N.J.R. 4254(a).

Executive Order No. 66(1978) Expiration Date

Chapter 3, Teachers' Pension and Annuity Fund, expires on November 13, 2003.

Chapter Historical Note

Chapter 3, Teachers' Pension and Annuity Fund, was filed 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 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 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: Source and Effective Date.

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).

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. ADMINISTRATION

- 17:3-1.1 Board meetings
- 17:3-1.2 Fiscal year
- 17:3-1.3 Officers and committees
- 17:3-1.4 Election of member-trustee
- 17:3-1.5 Certifying agent (employer)
- 17:3-1.6 Records
- 17:3-1.7 Appeal from Board decisions
- 17:3-1.8 Suspension of pension checks
- 17:3-1.9 Verified discrepancy in member's age
- 17:3-1.10 Travel
- 17:3-1.11 Proof of age
- 17:3-1.12 State employees; biweekly salaries
- 17:3-1.13 Nearest attained age; enrollment; retirement

SUBCHAPTER 2. ENROLLMENT

- 17:3-2.1 Eligible positions
- 17:3-2.2 Documentation required
- 17:3-2.3 Full-time
- 17:3-2.4 Emergency or provisional certificate
- 17:3-2.5 Janitors

- 17:3-2.6 Ineligible positions; interim appointment to boards of education
- 17:3-2.7 Enrollment following deferred retirement
- 17:3-2.8 (Reserved)

SUBCHAPTER 3. INSURANCE AND DEATH BENEFITS

- 17:3-3.1 Compulsory and optional enrollment
- 17:3-3.2 Participation in the program
- 17:3-3.3 Computation of insurance benefits
- 17:3-3.4 Contributory insurance rate
- 17:3-3.5 New enrollments and transfers; contributory insurance premiums
- 17:3-3.6 Leave for illness
- 17:3-3.7 Survivor benefits
- 17:3-3.8 Withdrawal application; contributory insurance
- 17:3-3.9 Withdrawal and return; contributory insurance
- 17:3-3.10 Ten-month members
- 17:3-3.11 Contributory insurance premiums; leave of absence
- 17:3-3.12 Beneficiary designation; pension contributions

SUBCHAPTER 4. MEMBERSHIP

- 17:3-4.1 Creditable salary
- 17:3-4.2 Leave with pay
- 17:3-4.3 School year members
- 17:3-4.4 Loan tolerance
- 17:3-4.5 Approved leave
- 17:3-4.6 Minimum adjustment
- 17:3-4.7 Excess contributions
- 17:3-4.8 Military leave
- 17:3-4.9 Eligibility for loan
- 17:3-4.10 Waiver required
- 17:3-4.11 Termination; withdrawal
- 17:3-4.12 Deductions
- 17:3-4.13 Active employment; membership requirement

SUBCHAPTER 5. PURCHASES AND ELIGIBLE SERVICE

- 17:3-5.1 Eligibility for purchase
- 17:3-5.2 New enrollment purchases or rates adjustment
- 17:3-5.3 Reestablishing military leave credit
- 17:3-5.4 Compulsory purchases
- 17:3-5.5 Optional purchases of eligible service
- 17:3-5.6 Methods of payment
- 17:3-5.7 Military leave
- 17:3-5.8 Service ineligible for purchase
- 17:3-5.9 Lump-sum purchases

SUBCHAPTER 6. RETIREMENT

- 17:3-6.1 Applications
- 17:3-6.2 Effective date; changes
- 17:3-6.3 Effective date; death prior thereto
- 17:3-6.4 Outstanding loan
- 17:3-6.5 Willful negligence
- 17:3-6.6 Retirement credit
- 17:3-6.7 Disability determination
- 17:3-6.8 Option selection
- 17:3-6.9 Employer and employee notices
- 17:3-6.10 Employer application; employee notice
- 17:3-6.11 Early retirement benefit
- 17:3-6.12 Service retirement eligibility
- 17:3-6.13 Disability retiree; annual medical examinations
- 17:3-6.14 Disability retiree; annual report (employment, earnings, test and adjustment)
- 17:3-6.15 Disability retirements; filing after more than two years' discontinuance of service
- 17:3-6.16 (Reserved)
- 17:3-6.17 Approved allowance
- 17:3-6.18 Option "I" benefit
- 17:3-6.19 Maximum allowance prescribed

- 17:3-6.20 Final compensation; 10 and 12-month members
- 17:3-6.21 Determination of last year's salary; veterans (veteran one-half pay retirement)
- 17:3-6.22 Waiver
- 17:3-6.23 Teachers' Retirement Fund benefits
- 17:3-6.24 Part-time members
- 17:3-6.25 Medical examinations; physicians
- 17:3-6.26 Final compensation; biweekly salary computation for State employees reported by centralized payroll
- 17:3-6.27 Determination of last year's salary; State employee veterans reported by centralized payroll

SUBCHAPTER 7. TRANSFERS

- 17:3-7.1 Interfund transfers; State-administered retirement systems
- 17:3-7.2 (Reserved)

SUBCHAPTER 1. ADMINISTRATION

17:3-1.1 Board meetings

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

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

(c) The current rules within Roberts' Rules of Order, effective as of April 4, 1994, as well as future amendments thereto, are adopted and incorporated herein by reference as the source to be used by the Board of Trustees of the Teachers' Pension and Annuity Fund 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).

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, with the exception of the actuarial valuation, which shall be prepared on the basis of the membership payroll and status of all accounts as of March 31 of each year.

17:3-1.3 Officers and committees

(a) The members of the Board shall elect a chairman for the forthcoming year at its regular meeting in June.

(b) The chairman of the Board shall preside at all meetings or in the absence of the chairman, such presiding officer as the Board shall determine.

(c) The chairman 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) There shall be three standing committees of three members each:

1. Finance Committee;
2. Retirement Committee; and
3. Procedures and Policies Committee.

(e) The Committee shall be appointed at the June Board meeting by the chairman elect for the forthcoming fiscal year.

(f) The State Treasurer and the person designated to represent the Fund on the State Investment Council shall serve as members of the Finance Committee.

(g) 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.

(h) The Retirement Committee shall consider all cases referred to it by the Secretary and submit its recommendations to the Board at its next meeting.

(i) The Procedures and Policies Committee shall consider all cases referred to it by the secretary and submit its recommendations to the Board at its next meeting.

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

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

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 of Trustees;
2. Presenting its annual report; and
3. Conducting a general discussion period on any questions concerning the report or matters pertaining to the Fund.

(b) Such annual convention shall be held each year at 10:30 A.M., on a Saturday in November designated by the trustees, at a location to be announced by the Board.

(c) The chairman of the convention will be a member of the Board of Trustees elected by the Board.

(d) The secretary of the Board shall act as the secretary of the convention.

(e) The delegates to the convention must be active members of the Fund.

(f) The delegates shall be elected at a meeting of the membership in each county to be called by the county superintendent no later than the 27th day of May.

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 meeting shall organize by the election of a chairman and secretary.

(b) In the instance of an active member who died in the performance of duty (accidental death), the initial pension payment will be for the month following the month in which the member died, and the last payment will cover the month

immediately preceding the month the survivor dies or ceases to qualify for the continuance of benefits.

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

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

17:3-3.8 Withdrawal application; contributory insurance

A properly executed contributory insurance withdrawal application must be in the possession of the Fund before termination of contributory insurance can be effected. Such withdrawal application cannot be retroactive.

17:3-3.9 Withdrawal and return; contributory insurance

(a) Withdrawal from contributory insurance coverage shall apply only to the membership account under which the cancellation was exercised.

(b) A person, who has cancelled his contributory insurance coverage and withdraws from membership in the Fund, shall, upon his subsequent reenrollment in the Fund, be subject to provisions of Section 3.1 (Compulsory and optional enrollment) of this Chapter.

17:3-3.10 Ten-month members

A member employed on other than a 12-month contract year will continue to be insured during the summer vacation period provided a *bona fide* employee-employer relationship exists during this period.

17:3-3.11 Contributory insurance premiums; leave of absence

(a) Contributory insurance coverage will be in effect while a member is on an official leave of absence without pay for the following reasons:

1. To fulfill a residency requirement for an advanced degree;
2. As a full-time student at an institution of higher education; and
3. Up to 93 days while on an official leave for any other reason, provided insurance premiums are paid in advance of the date the leave was granted.

As amended, R.1973 d.49, effective February 14, 1973.
See: 5 N.J.R. 20(b), 5 N.J.R. 95(b).

17:3-3.12 Beneficiary designation; pension contributions

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

(b) Multiple members of a retirement system are required to file new beneficiary forms when the beneficiary nomination on the multiple enrollment forms do not agree.

(c) All beneficiaries must be specifically named. The designation—"children", unless otherwise qualified by the member, shall mean all individuals, including natural or adopted children, entitled to take from the member by the New Jersey law of interstate succession, N.J.S.A. 3A:2A-1 et seq., and excludes all persons who are only stepchildren,

foster children, grandchildren or any more remote descendants.

R.1974 d.24, effective January 31, 1974.
See: 5 N.J.R. 426(d), 6 N.J.R. 124(a).
As amended, R.1983 d.78, effective March 21, 1983.
See: 14 N.J.R. 1202(b), 15 N.J.R. 449(b).
Subsections (b) and (c) added.

SUBCHAPTER 4. MEMBERSHIP

17:3-4.1 Creditable salary

(a) Only a member's base or contractual salary shall be subject to pension and group life insurance contributions and creditable for retirement and death benefits in the Fund.

(b) The Board shall reserve the right to question any salary to determine its creditability.

(c) Where it is evident from the record that a salary reported for benefits includes extra compensation, such extra compensation shall be considered not creditable for benefits and all contributions made thereon shall be returned without interest.

(d) Some of the forms of compensation that have been defined as extra compensation are as follows:

1. All forms of bonus or overtime;
2. Extra compensation paid for coaching sports;
3. Retroactive salary adjustment or pay adjustment made within member's final year of service, unless such adjustment was made as the result of an across-the-board pay adjustment for all personnel in the school district;
4. Individual pay adjustment made within or at the conclusion of a member's final year of service;
5. Increment granted for retirement credit or in recognition of the member's forthcoming retirement or in recognition of the member's years of service in the community;
6. Lump sum terminal accumulated sick leave or vacation pay;
7. Individual adjustment made in final year to place member at maximum on salary guide;
8. Additional compensation paid for performing temporary administrative or supervisory assignments such as department head, acting principal and the like;
9. Additional compensation paid for teaching evening, extension or summer school;
10. Additional compensation paid for performing clerical or other sundry duties;

11. Additional compensation paid for working during vacation periods.

(e) All claims involving an increase in compensation of more than 15 percent over that of the previous year, as reported to the pension fund, shall be investigated. Those cases where a violation of the statute is suspect shall be reported to the board.

(f) A member under 62 years of age will receive service credit for that base salary received during the period of his suspension in which he is awaiting a determination by the Commissioner of Education as provided under N.J.S.A. 18A-6.14. Service credit will not be granted for such salary after the first of the month following his attainment of age 62 when that salary will no longer be covered by Social Security.

Amended by R.1973 d.49, effective February 14, 1973.

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

Amended by R.1981 d.30, effective January 27, 1981.

See: 12 N.J.R. 675(d), 13 N.J.R. 162(a).

(f) added.

Law Review and Journal Commentaries

Pensions—Teachers. Steven P. Bann, 133 N.J.L.J. No. 11, 54 (1993).

Case Notes

High school teachers acting as department chairpersons were not temporary employees so compensation received was creditable. *Siri v. Board of Trustees of Teachers' Pension and Annuity Fund*, 262 N.J.Super. 147, 620 A.2d 440 (A.D.1993).

Additional half-day of work performed by high school psychologist was not temporary so the extra salary was creditable for pension purposes. *Siri v. Board of Trustees of Teachers' Pension and Annuity Fund*, 262 N.J.Super. 147, 620 A.2d 440 (A.D.1993).

Merit increase not a bonus for pension calculation purposes. *Farrah v. Teachers' Pension and Annuity Fund*, 93 N.J.A.R.2d (TYP) 69.

Petition for pension credit for payment received for services rendered as high school department chairman denied based upon finding that payment did not take the form of salary and was classified as extra compensation in petitioner's employment contract (also citing former N.J.A.C. 17:3-29). *Bishop v. Bd. of Trustees, Teachers' Pension and Annuity Fund*, 4 N.J.A.R. 179 (1980).

17:3-4.2 Leave with pay

If a member is granted a leave of absence during the course of a school year with sufficient salary to cover a full normal contribution, including any arrears or loan payments, the privilege of the member to obtain credit for such leave shall not extend beyond six months. If the leave with pay extends beyond six months, the member will receive credit and will be required to make contributions only if he is receiving 50 percent or more of his regular base or contractual salary.

Amended by R.1974 d.24, effective January 31, 1974.

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

17:3-4.3 School year members

(a) Members whose salaries for a school year are considered as a full year's compensation shall be given service credit in the proportion that the time employed bears to the duration of the school year, but not more than one year's credit shall be given during any consecutive 12 months.

(b) If a member terminates a position that requires less than 12 months to constitute one full year of service at the end of the normal academic school year and accepts a 12 month position with the same employer or another employer that participates in the Teachers' Pension and Annuity Fund and begins employment on or before the date that was established by the previous year's contract position. Such member will receive service credit within the Teachers' Pension and Annuity Fund for the period between the end of the previous contract and the employment date of the new 12 month position.

Amended by R.1989 d.359, effective July 17, 1989.

See: 21 N.J.R. 980(a), 21 N.J.R. 2055(a).

Employees working less than a 12 month school year receive credit for a full year in Teacher's Pension and Annuity Fund.

Amended by R.1994 d.163, effective April 4, 1994.

See: 26 N.J.R. 108(b), 26 N.J.R. 1538(a).

Amended by R.1995 d.89, effective February 21, 1995.

See: 26 N.J.R. 3606(a), 27 N.J.R. 754(c).

Case Notes

Professor employed on semester-by-semester basis did not qualify for extension of retirement system membership. *LaMastro v. Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 215.

17:3-4.4 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.

New Rule, R.1987 d.130, effective March 16, 1987.

See: 19 N.J.R. 52(b), 19 N.J.R. 457(a).

Old rule "loan evaluation" repealed.

17:3-4.5 Approved leave

When benefits are payable involving approved leaves of absence or when a purchase of credit is to be processed involving a creditable leave, a certified copy of the employer's resolution granting such approved leave must be available in file or must be confirmed before processing can be completed.

Amended by R.1973 d.49, effective February 14, 1973.

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

1. His employer has initiated a disability application, on the member's behalf; and
2. His employer has certified that the member is permanently and totally disabled for the continued performance of duty; and, if appropriate;
3. His employer has certified that the member should be retired as a direct result of a traumatic event occurring during and as a result of the performance of his regular or assigned duties;
4. He has a period of 30 days to contest his involuntary retirement before the Board acts on his employer's application;
5. He will be required to appear for an examination before a physician designated to conduct such an examination for the Fund; and
6. In the event the Board finds that he is totally and permanently incapacitated for the performance of duty, he shall be granted the maximum retirement allowance (without option) payable under the statute, if he (the member) does not file a completed "Application for Disability Retirement Allowance" setting forth the type of allowance he desires, before his retirement goes into effect; and
7. In the event the Board finds that he is not totally and permanently incapacitated for the performance of duty, the employer's application shall be disallowed and the employer shall be informed that the member should be returned to duty.

17:3-6.11 Early retirement benefit

(a) The statutory reduction of $\frac{1}{4}$ of one per cent applies to each month prior to the month in which the member attains age 55 and for the month in which the member attains age 55, if his 55th birthday occurs on or after the 15th day of the month.

(b) Retirement on the first of the month in which a member attains age 55 shall be classed as "early" retirement, although a reduction is not applied if his 55th birthday occurs before the middle of such month.

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.1974 d.24, effective January 31, 1974.

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

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

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

Case Notes

Good cause was shown by school teacher who converted his ordinary disability retirement plan to early service retirement. *Steinmann v. State, Dept. of Treasury, Div. of Pensions, Teachers' Pension and Annuity Fund*, 116 N.J. 564, 562 A.2d 791 (1989).

17:3-6.12 Service retirement eligibility

A member becomes eligible for "Service" retirement on the first of the month following his 60th birthday.

17:3-6.13 Disability retirant; annual medical examinations

(a) All disability retirants may be required to undergo a medical examination each year for at least five years or for good cause thereafter by a physician designated by the Fund as of the anniversary date of their retirement, unless such examination requirement has been waived by the Board. Good cause means the receipt by the Board of creditable information that a member who is receiving a disability retirement allowance is no longer disabled.

(b) Failure on the part of a retirant to submit to the required medical examination shall result in the automatic suspension of his retirement allowance until he submits to a medical examination.

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.1980 d.103, effective March 5, 1980.

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

Amended by R.1998 d.324, effective July 6, 1998.

See: 30 N.J.R. 1027(a), 30 N.J.R. 2515(a).

In (a), deleted “, under the normal retirement age,” following “retirants” and substituted “at least five years or for good cause thereafter” for “a maximum period of five years” in the first sentence, and added a second sentence.

17:3-6.14 Disability retirant; annual report (employment, earnings, test and adjustment)

(a) All disability retirants shall be required to file a report with the Fund which shall include copies of the retirants' IRS 1040 forms and W-2 forms as well as any other proofs of employment requested of a specific retirant indicating the type of employment they are engaged in, if any, and the gross earned income realized therefrom as of December 31 of each year.

1. Such report shall be filed with the Fund before the following April 30.

2. Failure on the part of the retirant to file a completed report with the Fund before April 30 shall result in the presentation of the retirant's case to the TPAF Board of Trustees who may impose penalties or suspend the retirant's entire retirement allowance for the period the report is in default.

(b) If a retirant reports employment and earnings, then the following tests shall be made by the Fund to ascertain:

1. Eligibility for reenrollment: If the retirant is engaged in a position subject to coverage by the Fund, the retirement allowance shall be canceled and the retirant shall be reenrolled in the Fund pursuant to N.J.S.A. 18A:66-40c, effective as of the date of the retirant's appointment to such contract. Any disability retirement benefits received after this date of appointment shall be refunded to the System.

2. Adjustment of allowance:

i. If the retirant is engaged in employment and the gross earned income for the preceding calendar year exceeds the difference between the pension and the salary the retirant would have been receiving had the retirant continued to work for the former employer (normal increment steps and salary guide revisions will be considered but no promotional assumptions will be made), an appropriate adjustment to the pension for the period will be made by such difference.

ii. If it is found, on or after April 30, that gross earned income for the calendar year exceeded the difference between the pension and the salary of the former position and if the retirant does not refund the excess pension to the Fund within 30 days of notification of the difference, the pension for the succeeding 12-month period will be reduced by the excess pension received in the preceding calendar year.

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.1980 d.103, effective March 5, 1980.

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

Amended by R.1998 d.325, effective July 6, 1998.

See: 30 N.J.R. 1028(a), 30 N.J.R. 2515(b).

Rewrote the section.

17:3-6.15 Disability retirements; filing after more than two years' discontinuance of service

(a) Following the filing of a disability retirement application, a vested member, who has not withdrawn his or her contributions from the retirement system, and has discontinued service for more than two consecutive years, and who was otherwise eligible for disability retirement at the time service was discontinued, shall be approved to receive disability retirement benefits by the Board of Trustees, if:

1. The applicant demonstrates to the satisfaction of the Board of Trustees that he or she was physically or mentally incapacitated for the performance of duty at the time service was discontinued, and continues to be so incapacitated, with the same disability or disabilities, at the time of filing; and

2. The applicant factually demonstrates to the satisfaction of the Board of Trustees that service was discontinued because of the disability or disabilities.

(b) A disability retirement application that is filed under this rule may take effect, in accordance with the laws and rules applicable to effective dates for disability retirements, only on or after the date the application is filed.

(c) This rule shall be applicable to all vested members and former members whose retirements were effective prior to February 1, 1999, but disability retirements under this rule shall not be effective prior to February 1, 1999.

New Rule, R.1999 d.35, effective February 1, 1999.

See: 30 N.J.R. 3377(a), 31 N.J.R. 459(a).

17:3-6.16 (Reserved)

Repealed by R.1990 d.283, effective June 4, 1990.

See: 22 N.J.R. 329(a), 22 N.J.R. 1740(c).

Section was “Retirement of members age 71 (correction of age)”.

17:3-6.17 Approved allowance

When a retirement allowance becomes effective, the type of allowance (maximum or option) elected shall stand as approved.

17:3-6.18 Option “I” benefit

The reserve established under the provisions of Option I shall be a form of reducing term insurance, as the reserve shall reduce in value by the amount of the retirant's monthly Option I allowance, whether received or not, for each month that he survives after the effective date of his retirement.

17:3-6.19 Maximum allowance prescribed

Where someone, other than a legal guardian, acting in behalf of a member makes application for a retirement allowance, such individual may not elect other than the maximum allowance for the member and the member's estate must be designated as the beneficiary for all death benefits payable on the member's account.

As amended, R.1975 d.140, effective May 27, 1975.
See: 7 N.J.R. 179(a), 7 N.J.R. 349(a).

17:3-6.20 Final compensation; 10 and 12-month members

(a) In order to determine the final compensation (three-year average) for benefits on a:

1. Member reported on a monthly basis under a ten-month contract, use the creditable salaries upon which contributions were made to the Fund for his final 30 months of service.

2. Member reported on a monthly basis under a 12-month contract, use the creditable salaries upon which contributions were made to the Fund for his last 36 months of service.

(b) If a member was reported on any combination of ten and 12-month contract years in such three-year period, the final average compensation shall be determined on a proportional basis.

(c) The months for which no contributions were made shall be counted as zero.

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.1974 d.24, effective January 31, 1974.
See: 5 N.J.R. 426(d), 6 N.J.R. 124(a).

Case Notes

Applying before retiree's sixtieth birthday precludes special veterans benefits. *Sulzman v. Teacher's Pension and Annuity Fund*, 97 N.J.A.R.2d (TYP) 19.

Teacher's retirement benefits corrected to reflect calculation on proportional basis where teacher worked both 10 and 12-month contract years. *Anderson v. Teachers' Pension and Annuity Fund*, 93 N.J.A.R.2d (TYP) 132.

17:3-6.21 Determination of last year's salary; veterans (veteran one-half pay retirement)

For a member reported on a monthly basis under a 10-month contract, use the member's final 10 months of creditable salaries upon which contributions were made for the period immediately preceding retirement; on a 12-month contract basis, his or her final 12 months of service; combination of 10- and 12-month contracts, on a proportional basis.

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.1974, d.24, effective January 31, 1974.
See: 5 N.J.R. 426(d), 6 N.J.R. 124(a).

Amended by R.1985 d.547, effective November 4, 1985.
See: 17 N.J.R. 2239(a), 17 N.J.R. 2674(a).
Substantially amended.

17:3-6.22 Waiver

If for any reason a retirement allowance or portion thereof has been waived by a retired member or beneficiary, the benefit waived shall remain in the Retirement Reserve Fund. Such person may cancel the waiver effective as of the first day of any month subsequent to the receipt of the notice of cancellation; however, he may not make a claim for payment of any benefits waived prior thereto.

As amended, R.1973 d.49, effective February 14, 1973.
See: 5 N.J.R. 20(b), 5 N.J.R. 95(b).

17:3-6.23 Teachers' Retirement Fund benefits

All Teachers' Retirement Fund benefits payable under the provisions of N.J.S.A. 18A:69-49 shall be exempt from consideration where the term "pension" is employed when referring to the suspension of the pension portion of a member's retirement allowance.

17:3-6.24 Part-time members

The determination of benefits, service credit and final compensation for any person (part-time teacher) who qualified for membership under Section 2.3 (Full time) of this Chapter shall be done on the same basis as for regular full-time teachers, with the exception that the Board shall reserve the right to review any application where there has been an unusual change in the teacher's status which might result in the payment of an abnormal benefit.

17:3-6.25 Medical examinations; physicians

Where the statute prescribes that a physician be designated by the Fund to perform a medical examination, such physician shall be selected from the current membership directory of the Medical Society of New Jersey and the New Jersey Association of Osteopathic Physicians and Surgeons; however, in the cases of those members whose personal physician has identified them as having a probable abbreviated life expectancy, such "imminent death" cases may be processed without the necessity of an examination by a physician designated by the Fund if corroborating medical evidence of the diagnosis can be obtained.

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.1975 d.140, effective May 27, 1975.
See: 7 N.J.R. 179(a), 7 N.J.R. 349(a).
As amended, R.1977 d.96, effective March 21, 1977.
See: 9 N.J.R. 100(b), 9 N.J.R. 200(a).
As amended, R.1982 d.15, effective February 1, 1982.
See: 13 N.J.R. 749(a), 14 N.J.R. 161(d).

Deleted "in order . . . by the fund" and substituted "in the cases . . . can be obtained".

17:3-6.26 Final compensation; biweekly salary computation for State employees reported by centralized payroll

(a) In computing "final compensation" upon which pension contributions were based, in the case of a 12-month State employee reported on a biweekly basis, a total of 78 biweekly pays will be used, including any retroactive salary payments made within the prescribed period.

(b) In computing (a) above, the total salary will be adjusted by the factors supplied by the actuary to convert biweekly salaries to compensate for State biweekly payroll schedules. Application of the factors to the salaries reported for pension purposes will develop "final compensation."

(c) In computing (a) above, in the case of State employees reported on a 10-month basis, the total biweekly pays will include those pay periods in the third quarter of each year in which the member does not receive a salary. The adjustment as specified in (b) above, shall not be made.

(d) If a member was reported on a biweekly basis on any combination of 10- and 12-month contract years, the final average compensation prior to retirement shall be determined on a proportional basis. The biweekly pay periods

for which no contributions were made shall be counted as zero.

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

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

As amended, R.1978 d.104, effective March 21, 1978.

See: 10 N.J.R. 37(c), 10 N.J.R. 176(a).

17:3-6.27 Determination of last year's salary; State employee veterans reported by centralized payroll

(a) 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 factors supplied by the actuary to compensate for State biweekly payroll schedules.

(b) In computing (a) above, in the case of State employees reported on a 10-month basis, the total biweekly pays will include those pay periods in the third quarter of each year in which the member does not receive salary. The adjustment as specified in (a) above, shall not be made.