

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
- 17:3-3.13 Acceptable designations of beneficiaries

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 (Reserved)
- 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 convention shall be held annually at a time and location designated 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 or former members receiving a retirement allowance from the Fund.

(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.

17:3-3.13 Acceptable designations of beneficiaries

(a) The beneficiary designation on a duly executed retirement application that is filed with and accepted by the Division supersedes any older designation of beneficiary on file. The designation is effective upon acceptance by the Division, even if the retirement date on the application is in the future.

1. The beneficiary or beneficiaries designated on the retirement application for the retirement allowance shall be the beneficiary or beneficiaries for the return of the member's accumulated contributions.

2. If no beneficiary designation is in effect at the time of the member's death, or if no one is named as beneficiary for the retirement allowance, the Division shall pay the benefit to the member's estate.

(b) The beneficiary or beneficiaries of the group life insurance designated on the retirement application shall be the beneficiary or beneficiaries of the active group life insurance.

1. If no beneficiary designation is in effect at the time of the member's death, or if no one is named as beneficiary for life insurance, the Division shall pay the benefit to the member's estate.

New Rule R.2000 d.101, effective March 20, 2000.
See: 31 N.J.R. 3930(a), 32 N.J.R. 1046(a).

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).