

17:5-5.3 Effective dates; changes

(a) Except as provided by N.J.A.C. 17:5-5.7, 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 of retirement date 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.

(c) If the applicant should die within 30 days following the date the Board of Trustees approved the revised application, the member shall be considered to be retired on the basis of the originally approved application for retirement, provided that the initial 30-day requirement was satisfied.

(d) A deferred retirement shall become effective on the first of the month following the member's 55th birthday. If the member's 55th birthday falls on the first of a month, the retirement shall become effective on that date, provided the member files a timely retirement application pursuant to N.J.S.A. 53:5A-28 and requests that retirement date.

(e) Should the member continue to receive a salary for services rendered beyond the effective date of retirement, no retirement benefits shall be paid for the period where the member received salary and no salary or service credit shall be provided for the service rendered after the effective date of retirement.

Recodified from N.J.A.C. 17:5-5.2 and amended by R.2001 d.128, effective April 16, 2001.

See: 33 N.J.R. 204(a), 33 N.J.R. 1205(a).

Rewrote section. Former N.J.A.C. 17:5-5.3, Effective date; death prior thereto, recodified to N.J.A.C. 17:5-5.2.

Amended by R.2005 d.206, effective July 5, 2005.

See: 37 N.J.R. 396(a), 37 N.J.R. 2554(c).

In (a), substituted "Except as provided by N.J.A.C. 17:5-5.7, a" for "A" preceding "member shall have the right to withdraw"; in (e), deleted "after approval of the retirement by the Board of Trustees" following "beyond the effective date of retirement" and deleted "approved," following "rendered after the".

Amended by R.2005 d.206, effective July 5, 2005.

See: 37 N.J.R. 396(a), 37 N.J.R. 2554(c).

In (a), substituted "Except as provided by N.J.A.C. 17:5-5.7 a" for "A" in the beginning of the first sentence; rewrote (e).

17:5-5.4 Willful negligence

(a) Willful negligence is defined as:

1. Deliberate act or deliberate failure to act; or
2. Such conduct as evidences reckless indifference to safety; or

3. Intoxication operating as the proximate cause of injury.

17:5-5.5 Outstanding loan

(a) Any member who has an outstanding loan balance at the time of retirement shall repay the loan balance, with interest, as follows:

1. In full as provided by N.J.S.A. 53:5A-29;

2. By deductions from retirement benefit payments of the same monthly amount deducted from the member's compensation immediately preceding retirement until the loan balance, with interest, is repaid as authorized by P.L. 1999 c.132. If the member does not request repayment in full, repayment is by deductions in the same monthly amount deducted from the member's compensation immediately preceding retirement.

(b) If a retirant dies before the loan balance, with interest, is repaid, the remaining balance shall be paid first from the pension system group life insurance proceeds, and then from the proceeds of any returned contributions payable on account of the retirant to the beneficiary or estate and then from the proceeds of any surviving spouse benefit. If multiple beneficiaries are to receive these benefits, each beneficiary shall share in repaying the remaining balance in the same proportion in which they are entitled to the benefits.

Amended by R.1997 d.29, effective January 21, 1997.

See: 28 N.J.R. 4385(a), 29 N.J.R. 377(a).

Added (a)2i; rewrote (b); and added (c) and (d).

Amended by R.2000 d.115, effective March 20, 2000.

See: 32 N.J.R. 28(a), 32 N.J.R. 1047(c).

In (a)2.i., inserted "and State" following "Federal" and deleted ". If the member does not request repayment in full, repayment shall be made by retention of retirement benefits." following "tax withholding" and added (a)3.; deleted former (b) and (c); and recodified former (d) as (b).

Amended by R.2001 d.128, effective April 16, 2001.

See: 33 N.J.R. 204(a), 33 N.J.R. 1205(a).

In (a), deleted former 2 and recodified former 3 as new 2.

17:5-5.6 (Reserved)

Recodified to N.J.A.C. 17:5-3.6 by R.2004 d.397, effective October 18, 2004.

See: 36 N.J.R. 1737(a), 36 N.J.R. 4835(b).

Section was "Retirement credit".

17:5-5.7 Disability determination

(a) A member, for whom an application for accidental disability retirement allowance has been filed by the member, by the member's employer or by one acting in behalf of the member, will be retired on an ordinary disability retirement allowance if the Board finds that:

1. The applicant was considered a member in service at the time of filing the application for a disability retirement allowance. A member in service means that the member or the employer was making pension contributions to the retirement system at the time of filing the application for a disability retirement allowance. It may

also mean that the member was on an approved leave of absence, paid or unpaid, or suspension, paid or unpaid, at the time of filing the application for a disability retirement allowance, and it has not been more than the time frames permitted by N.J.S.A. 53:5A-15.1 for active membership since the member's last contribution to the retirement system. If the member had pending litigation for wrongful termination filed against the employer, the member has 30 days from the date the litigation is resolved to file for disability retirement in order to be considered a "member in service";

2. The member is physically or mentally incapacitated for the performance of duty and such incapacity is likely to be permanent;

3. The member is not eligible for accidental disability; and

4. The member meets the service requirement for ordinary disability.

(b) Once the Board approves a member for a disability retirement allowance, the member's retirement application shall not be withdrawn, canceled or amended.

Amended by R.2001 d.128, effective April 16, 2001.

See: 33 N.J.R. 204(a), 33 N.J.R. 1205(a).

In (a), substituted "the member's" for "his" in the introductory paragraph, and rewrote 1 and 3.

Amended by R.2005 d.206, effective July 5, 2005.

See: 37 N.J.R. 396(a), 37 N.J.R. 2554(c).

In (a), rewrote 1; added (b).

17:5-5.8 (Reserved)

17:5-5.9 Determination of final compensation

In computing the salary upon which pension contributions were based during the member's last year of service, a total of 26 biweekly pays will be used including any retroactive salary payments which are attributable to those 26 biweekly pay periods. The total salary will be adjusted by factors supplied by the actuary to compensate for State biweekly payroll schedules. The biweekly pay periods for which no contributions were made shall not be used in the calculation.

Amended by R.2001 d.128, effective April 16, 2001.

See: 33 N.J.R. 204(a), 33 N.J.R. 1205(a).

Rewrote section.

17:5-5.10 Employer initiated disability application; employee notice

(a) If an application for an accidental disability retirement benefit or for an ordinary disability retirement benefit is filed by the Division of State Police for an employee, the member will be promptly notified by letter that:

1. The Division of State Police has properly initiated a disability application on the member's behalf;

2. The Division of State Police has submitted a written statement as to the grounds for the employer's request for the member's involuntary disability retirement and all available medical documentation;

3. If appropriate, the Division of State Police 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 the member's regular or assigned duties;

4. The member has a period of 30 days to contest the involuntary retirement before the Board acts on the employer's application;

5. The member will be required to appear for an examination before a physician designated to conduct such an examination for the retirement system;

6. In the event the Board finds that the member is totally and permanently incapacitated for the performance of duty, the member shall be granted the disability retirement allowance approved; and

7. In the event the Board finds that the member is not totally and permanently disabled for the performance of duty, the Division of State Police shall be so advised that the application has been rejected and that the member should be returned to duty.

Amended by R.2001 d.128, effective April 16, 2001.

See: 33 N.J.R. 204(a), 33 N.J.R. 1205(a).

Rewrote section.

17:5-5.11 Service retirement; eligibility

A member becomes eligible for "service" retirement on the first of the month following the month in which the member satisfies the conditions of retirement for age and service.

17:5-5.12 (Reserved)

Repealed by R.2001 d.128, effective April 16, 2001.

See: 33 N.J.R. 204(a), 33 N.J.R. 1205(a).

Section was "Disability retirant; annual report".

17:5-5.13 Compulsory retirement

(a) Compulsory retirement at age 55 is applicable to all members.

(b) Compulsory retirement will be effective on the first day of the month following the member's 55th birthdate.

Repeal and New Rule, R.2001 d.128, effective April 16, 2001.

See: 33 N.J.R. 204(a), 33 N.J.R. 1205(a).

17:5-5.14 Employer and employee notices

If an applicant for accidental disability retirement is found to be physically or mentally incapacitated for the performance of duty but is rejected for accidental disability retirement because the Board finds that the disability was not a direct result of a traumatic event occurring during and as a result of the performance of the applicant's regular or assigned duties, and if the applicant does not meet the minimum statutory requirements for any other type of retirement allowance, the Division will notify both the member and the member's employer that the member was found to be physically or mentally incapacitated for the continued performance of duty, as was previously certified to the Division.

Amended by R.2001 d.128, effective April 16, 2001.

See: 33 N.J.R. 204(a), 33 N.J.R. 1205(a).

Neutralized gender references throughout; substituted "Division" for "system" throughout; deleted "by both the employee and his employer." at the end of the first sentence; deleted the last sentence.

17:5-5.15 Medical examinations; physicians

N.J.S.A. 53:5A-11 requires the Retirement System or the Board to designate physicians to perform medical examinations. A designated physician shall not be a member's personal physician, except in the case of a member whose personal physician has identified the member as having a probable abbreviated life expectancy if sufficient corroborating medical evidence of the diagnosis can be obtained.

Repeal and New Rule, R.2001 d.128, effective April 16, 2001.

See: 33 N.J.R. 204(a), 33 N.J.R. 1205(a).

17:5-5.16 Work-related travel; accidental disability retirement and accidental death benefit coverage

(a) A member whose duties include regular or occasional travel in the course of employment will be considered in the "performance of regular or assigned duties" for the purposes of accidental disability retirement or "in the actual performance of duty" for the purposes of accidental death benefits during employment-related travel as provided in this section. For the purposes of this section, "in performance of duty" means and includes both "performance of regular or assigned duties" and "in the actual performance of duty."

(b) If a member's duties require or authorize the member to travel between a regularly assigned office or workplace and other locations, or among other locations, the member is in performance of duty during travel between a regularly assigned office or workplace and other locations, or among other locations.

(c) If a member's duties require or authorize the member to travel between the member's place of residence and a location other than an office or workplace of the employer to which the member is regularly assigned or near to the regularly assigned office or workplace to perform the duties of the employment, the member is in performance of duty when the member completely leaves the property of the member's residence and begins to travel to the other location, or until the member begins entry to the property of residence after travel from the other location, and all expenses of the travel are paid for by the employer. A member's duties are considered to authorize or require travel from the place of residence to a location other than a regularly assigned office or workplace of the employer in the following situations:

1. The member's regular or assigned duties involve field work which requires or authorizes the member to travel to locations other than a regularly assigned office or workplace of the employer to perform the member's duties and do not require the member to report to a regularly assigned office or workplace before or after

traveling to other locations. Travel by the member between a regularly assigned office or workplace of the employer and the place of residence of the member is not considered part of the member's duties.

2. The member's regular or assigned duties are usually performed at an office or workplace of the employer to which the member is regularly assigned but occasionally require or authorize travel to other locations.

3. The member is authorized or required by the member's employer to respond to an emergency situation outside of the member's regularly scheduled work hours, regardless of whether the member goes to a regularly assigned office or workplace or another location, or whether the expenses of the travel are paid for by the employer or the member.

4. The member is attending a meeting, seminar, convention or a similar type of work-related activity as authorized or required by the employer at a location other than a regularly assigned office or workplace, regardless of whether the expenses of the travel are paid for by the employer or the member. Where there are social or recreational activities associated with the work-related activity or attendance requires living accommodations, only travel to and from the general activity and participation in and travel to and from the work-related functions of the activity are considered part of the duties of the member. Activities related to social or recreational functions or living accommodations are not considered part of the duties of the member.

- i. In all cases, a certification from the employer is required and must include a copy of the member's job description, a statement of the member's work schedule on the day of the travel in question, and proof of or a statement by the employer that the travel was authorized or required by the employer and indicating who paid the travel expense.

New Rule, R.2001 d.128, effective April 16, 2001.

See: 33 N.J.R. 204(a), 33 N.J.R. 1205(a).

17:5-5.17 Waiver

(a) 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.

(b) Such retired members or beneficiaries may cancel the waiver effective as of the first day of any month subsequent to the receipt of the notice of cancellation; however, they may not make a claim for retroactive payment of any benefits waived prior thereto.

New Rule, R.2001 d.128, effective April 16, 2001.

See: 33 N.J.R. 204(a), 33 N.J.R. 1205(a).

SUBCHAPTER 6. TRANSFERS

17:5-6.1 Interfund transfers; other State systems

(a) The receipt of a public pension or retirement benefit is expressly condition upon the rendering of honorable service by a public official or employee. Therefore, the Board of Trustees of the present System shall disallow the transfer of all or a portion of prior service of any member of the System for misconduct occurring during the member's prior public service which renders that prior service, or part thereof, dishonorable.

(b) The member is not eligible to transfer service credit if any of the following conditions apply:

1. The member has withdrawn the previous membership;
2. The member has credit in the present system for service earned after the date of enrollment in the new system (concurrent service); or
3. The account has expired; that is, it has been more than two years from the date of the last contribution and there was not sufficient service credit to be eligible for deferred retirement.

(c) Membership credit so transferred shall be included in the computation of a retirement allowance. Such credits cannot be used to satisfy the statutory requirements of those benefits which specifically require a minimum number of years of creditable service as a State police employee.

(d) The system will transfer membership to any State-administered system as follows:

1. A member, desiring to transfer service credit and contributions from one State-administered retirement system to another shall file an Application of Interfund Transfer and an "Enrollment Application" in place of the customary "Application for Withdrawal." This application will void all possible claims against the present system when approved and the new membership is commenced in the new system.

2. The member's accumulated contributions, less any outstanding loan, shall be transferred to the new system for the account of the respective member. Any outstanding loan, back deductions or arrears obligation will be scheduled for repayment.

3. A statement reflecting the member's status as of the date of transfer shall be prepared by the Withdrawal Section of the Division and a copy forwarded to the old account.

4. The member's service credits established in the present system shall be transferred to the new system, subject to the provisions of the SPRS. A data sheet shall be created for the member's new account that will indicate an interfund transfer from the member's previous retirement system and the service credit transferred into the new membership account.

(e) The reserves accrued in the present system will be valued and compared to the reserves required in the new system.

1. If the reserves accumulated or provided for in the present system are less than those required in the new system, the full reserve will be transferred.

2. If the reserves accumulated or provided for in the present system are more than those required in the new system, only the amount required to establish the credit will be transferred.

(f) Years of credit will be subject to the benefit formula of the new system after transfer.

(g) A member shall meet all age and physical requirements for enrollment into the State Police Retirement System before an interfund transfer into the SPRS shall take effect.

Amended by R.2001 d.128, effective April 16, 2001.
See: 33 N.J.R. 204(a), 33 N.J.R. 1205(a).
Rewrote section.