

CHAPTER 5**STATE POLICE RETIREMENT SYSTEM****Authority**

N.J.S.A. 53:5A-30h.

Source and Effective Date

R.2006 d.241, effective June 6, 2006.
See: 38 N.J.R. 1173(a), 38 N.J.R. 2885(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 5, State Police Retirement System, expires on December 3, 2013. See: 43 N.J.R. 2568(a).

Chapter Historical Note

Chapter 5, State Police Retirement System, was adopted and became effective prior to September 1, 1969.

Subchapter 4, Purchase and Eligible Service, was adopted as R.1982 d.66, effective March 15, 1982. See: 13 N.J.R. 939(a), 14 N.J.R. 284(e).

Pursuant to Executive Order No. 66(1978), the individual Subchapters of Chapter 5 expired on May 12, 1985 and were adopted as new rules by R.1985 d.614, effective December 2, 1985. See: 17 N.J.R. 2018(a), 17 N.J.R. 2914(a).

Pursuant to Executive Order No. 66(1978), Chapter 5, State Police Retirement System, was readopted as R.1991 d.2, effective November 30, 1990. See: 22 N.J.R. 3200(a), 23 N.J.R. 123(a). Pursuant to Executive Order No. 66(1978), Chapter 5, State Police Retirement System, expired on November 30, 1995.

Chapter 5, State Police Retirement System, was adopted as new rules by R.1996 d.268, effective June 17, 1996. See: 28 N.J.R. 1492(a), 28 N.J.R. 3167(a).

Pursuant to Executive Order No. 66(1978), Chapter 5, State Police Retirement System, was readopted as R.2001 d.128, effective March 22, 2001. See: 33 N.J.R. 204(a), 33 N.J.R. 1205(a).

Chapter 5, State Police Retirement System, was readopted as R.2006 d.241, effective June 6, 2006. See: Source and Effective Date. See, also, section annotations.

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 5, State Police Retirement System, was scheduled to expire on June 6, 2013. See: 43 N.J.R. 1203(a).

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SUBCHAPTER 1. ADMINISTRATION**17:5-1.1 Board meetings**

The Board of Trustees shall meet at the call of the chairperson and secretary at such time as may be deemed necessary by the Board.

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

Substituted "at such time as may be deemed necessary by the board" for "subject to the prescribed requirements and procedures of c.231, P.L. 1975".

17:5-1.2 Fiscal year

(a) Fiscal year shall mean the 12-month period of fiscal transactions commencing July 1 and running until June 30 following.

(b) All reports and statements will consider such a fiscal year except special reports not having direct relationship to the financial transactions of the retirement system.

17:5-1.3 Officers and committees

(a) The chairperson and vice chairperson of the Board will be elected by a majority vote of the members in attendance at the first meeting of July, not less than three members to be present at such a meeting. The chairperson of the Board shall preside at all meetings or in the absence of the chairperson, the vice chairperson shall assume the chairperson's responsibilities. If both are absent, another member selected by the majority of the members in attendance will preside for that single meeting.

(b) The Director of the Division of Pensions and Benefits shall appoint a qualified employee of the Division to be Secretary of the Board.

(c) The chairperson will appoint such committees from the Board members as deemed necessary to facilitate the Board's operations. Such committee appointment will be for a one-year period, commencing each July 1.

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.

17:5-1.4 Certifying officer (employer)

(a) The official properly designated by the Division of State Police will serve as the certifying officer.

(b) The prime purpose of the certifying officer will be to certify facts of enrollment, retirement, withdrawal and to implement proper procedures for the reports and transmittal of employee deductions and to act as liaison for all dealings between the Division of State Police and the Retirement System. The certifying officer shall also be responsible for all other duties relating to matters concerning the System including providing requested documentation in a timely manner.

Amended by R.2006 d.241, effective July 3, 2006.
See: 38 N.J.R. 1173(a), 38 N.J.R. 2885(a).
In (b), capitalized "Retirement System" and added final sentence.

17:5-1.5 Records

(a) The minutes of the Board are a matter of public record and may be inspected during regular business hours in the Office of the Board Secretary.

(b) The mailing addresses of all active and retired members are considered to be a part of the member's confidential files and shall not be released for any purpose.

(c) The designations of beneficiaries of all active and retired members are considered to be a part of the member's confidential files and shall only be released upon a signed release by the active member or retiree or after the death of the active member or retiree.

(d) All medical testimony obtained in connection with an application for disability retirement shall be restricted for the confidential use of the Board. The Division shall release a

copy of the examining physician's medical report to the member, the member's attorney or any person authorized by the member in writing to receive a copy of such report. A copy of the Board appointed physician's medical report cannot be released until after the Board's initial determination. In no event shall the report be released to any individual not authorized in writing to receive the report.

(e) The annual report of the System's actuary shall not be released until it has been approved by the Board.

(f) Original documents, if available, shall only be viewed by appointment at the Division of Pensions and Benefits by contacting the Client Services Section at (609) 292-7524.

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

Added new (c); recodified former (c) as (d) and added the second and third sentences.

Amended by R.2006 d.241, effective July 3, 2006.
See: 38 N.J.R. 1173(a), 38 N.J.R. 2885(a).

In (a), capitalized "Office" and "Secretary"; in (c), substituted "upon a signed release by the active member or retiree or after the death of the active member or retiree" for "after the member's death"; rewrote (d); and added (e) and (f).

17:5-1.6 Appeal from board decisions

The following statement shall be incorporated in every written notice setting forth the Board's determination in a matter where such determination is contrary to the claim made by the claimant or the claimant's legal representative:

"(a) If you disagree with the determination of the Board, you may appeal by submitting a written statement to the Board within 45 days after the date of written notice of the determination. The statement shall set forth in detail the reasons for your disagreement with the Board's determination and shall include any relevant documentation supporting your claim. If no such written statement is received within the 45-day period, the determination by the Board shall be final.

(b) The Board shall determine whether to grant an administrative hearing based upon the standards for a contested case hearing set forth in the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1 et seq.

(c) Administrative hearings will be conducted by the Office of Administrative Law pursuant to the provisions of N.J.S.A. 52:14B-1 et seq. and N.J.A.C. 1:1-1.

(d) If the granted appeal involves a question of facts, the Board shall submit the matter to the Office of Administrative Law.

(e) If the granted appeal involves solely a question of law, the Board may retain the matter and issue a final administrative determination which shall include detailed findings of fact and conclusions of law based upon the documents, submissions and legal arguments of the parties. The Board's

final determination may be appealed to the Superior Court, Appellate Division.”

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

17:5-1.7 Suspension of pension checks

(a) The disbursement of pension checks shall be suspended under the following circumstances and the suspension shall continue during the period in default:

1. If a widow, widower, parent or guardian of a minor child(ren) fails to file a certificate of eligibility which is normally mailed to such beneficiaries on a periodic basis;
2. If a retirant or beneficiary becomes mentally or physically incompetent. The disbursement of pension checks in this instance shall be suspended until a proper legal representative has been appointed; or
3. If a retirant does not complete a policy assignment of group life insurance as requested by the Board.

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 disbursement of pension checks shall” for “Monthly retirement allowances will”, “shall” for “will” preceding “continue”, and “in “ for “of” preceding “default” in the introductory paragraph; deleted former (a)1; recodified former (a)2 as (a)1 and substituted “a periodic” for “an annual”; recodified former (a)3 as (a)2 and substituted “instance” for “event”.

Amended by R.2006 d.241, effective July 3, 2006.
See: 38 N.J.R. 1173(a), 38 N.J.R. 2885(a).

In (a)2, substituted “; or” for the period at the end; and added (a)3.

17:5-1.8 State employees; biweekly salaries

Retirement and death benefits as well as service credit will be determined on the basis of biweekly pay periods for State employees paid by centralized payroll.

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.

17:5-1.9 Proof of age

(a) All members shall establish proof of their age with the System. Acceptable proofs of age include birth or baptismal certificates, passports, naturalization papers, Biblical records, affidavits of older members of the immediate family or primary school records.

(b) In the event a member dies before satisfactory evidence of the member’s date of birth has been filed with the System, appropriate evidence may be required before any death claim is processed for settlement.

(c) In the event proof of age has not been filed with the System before retirement, such proof must be filed before any retirement benefits may be disbursed.

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

Rewrote (a); deleted (b); recodified former (c) and (d) as new (b) and (c).

SUBCHAPTER 2. INSURANCE AND DEATH BENEFITS

17:5-2.1 Computation of insurance benefits

(a) Full salary credit will be given for the biweekly pay period in which a member dies, if the member was paid salary to the date of death and the salary paid was sufficient to permit a full normal 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 26 biweekly pay periods immediately preceding the member’s death, plus maintenance received by the member concurrent with such salary. Biweekly 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 3½ times the member’s base salary on which the member contributed or would have contributed immediately prior to death, plus the maintenance received by the member concurrent with such salary.

(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 the 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 the member’s last year of service, a total of 26 biweekly pays will be used including any retroactive salary payments made which are attributable to those 26 pay periods. 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.128, effective April 16, 2001.
See: 33 N.J.R. 204(a), 33 N.J.R. 1205(a).
Rewrote section.

17:5-2.2 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.128, effective April 16, 2001.
See: 33 N.J.R. 204(a), 33 N.J.R. 1205(a).
Rewrote (a); deleted (b).

17:5-2.3 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 continue insurance coverage.

Recodified from N.J.A.C. 17:5-2.5 by R.2001 d.128, effective April 16, 2001.
See: 33 N.J.R. 204(a), 33 N.J.R. 1205(a).
Former N.J.A.C. 17:5-2.3, Proof of insurability, repealed.

17:5-2.4 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 pursuant to N.J.S.A. 53:5A-12a.

(c) If a deceased member has no eligible surviving spouse, child or parent, then pursuant to N.J.S.A. 53:5A-12b, 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.432, effective November 6, 2000.
See: 32 N.J.R. 2986(b), 32 N.J.R. 3996(d).

17:5-2.5 (Reserved)

Recodified to N.J.A.C. 17:5-2.3 by R.2001 d.128, effective April 16, 2001.
See: 33 N.J.R. 204(a), 33 N.J.R. 1205(a).

SUBCHAPTER 3. MEMBERSHIP

17:5-3.1 Creditable salary

(a) "Creditable compensation" or the phrase "compensation upon which contributions by the member to the Annuity Savings Fund were based" shall not include retroactive salary adjustments if the increases are not of a normal, overall, published program of increases.

(b) Bonus or overtime payments are not to be considered for such purpose.

(c) Longevity, terminal leave or vacation payments will not be considered if paid in a lump sum or other than as a regular salary disbursement.

(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.

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 "Creditable" for "Earnable"; rewrote (d).

17:5-3.2 (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 "Revaluation".

17:5-3.3 Deductions

(a) A full deduction shall be taken for the State Police Retirement System for any payroll period in which the member is paid a sufficient amount to make a full normal pension deduction. If wages are sufficient, deductions shall 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 State Police Retirement system.

(c) Credit, as established in the retirement system, will be reduced by breaks in service, and leaves or absences without pay, the total of such credit adjusted to the nearest pay period.

Amended by R.2001 d.128, effective April 16, 2001.
See: 33 N.J.R. 204(a), 33 N.J.R. 1205(a).
Rewrote (a) and (b); in (c), substituted "pay period" for "month".

17:5-3.4 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.128, effective April 16, 2001.

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

Substituted "\$2.00" for "\$3.00" and added "during a calendar quarter".

17:5-3.5 Suspension

(a) A suspended member will have insurance coverage continued for the period of the suspension, terminated by resignation or dismissal.

(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.128, effective April 16, 2001.

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

In (b), deleted "retirement" preceding "deductions" and substituted "service" for "retirement"; in (c), deleted "entire" preceding "elimination" and inserted "entire" preceding "suspension."

17:5-3.6 (Reserved)

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

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

In (b), neutralized gender references throughout.

Recodified from N.J.A.C. 17:5-5.6 and amended by R.2004 d.397, effective October 18, 2004.

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

In (a), inserted "service" preceding "credit" and substituted "for" for "in" following "pay period"; rewrote (b); added a new (c); added (d); recodified former (c) as (e).

Amended by R.2006 d.241, effective July 3, 2006.

See: 38 N.J.R. 1173(a), 38 N.J.R. 2885(a).

In (a), inserted "Retirement"; and rewrote (d).

Repealed by R.2010 d.190, effective September 7, 2010.

See: 42 N.J.R. 899(a), 42 N.J.R. 2140(c).

Section was "Service and salary credit: awards of back pay".

Administrative correction.

See: 43 N.J.R. 59(a).

Repealed by R.2011 d.066, effective February 22, 2011.

See: 42 N.J.R. 899(a), 43 N.J.R. 449(c).

Section was "Service and salary credit: awards of back pay".

17:5-3.7 Eligibility for loan

Only active contributing members of the Retirement 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 or \$50,000. The loan is subject to 26 U.S.C. §72(p).

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.

Amended by R.2006 d.241, effective July 3, 2006.

See: 38 N.J.R. 1173(a), 38 N.J.R. 2885(a).

Inserted "Retirement" in the first sentence, added "or \$50,000." at the end of the second sentence, and added the final sentence.

17:5-3.8 Termination; withdrawal

(a) Under the terms of the statutes, a member may withdraw from the Retirement System only if the member terminates all employment. No application shall be approved if:

1. The member is on official leave of absence;

2. The member or employer 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 and there is no legal action contemplated or pending and the dismissal has been adjudged final. If the member or employer does not advise the Division that there is an appeal and the withdrawal application is processed, the member must repay the Retirement System the full amount of contributions with interest before the account may be reinstated; or

4. The member has a claim pending for Workers' Compensation benefits, unless the member signs a waiver indicating that the member still wishes to withdraw.

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.

Amended by R.2006 d.241, effective July 3, 2006.

See: 38 N.J.R. 1173(a), 38 N.J.R. 2885(a).

In (a), inserted "Retirement"; in (a)2, inserted "or employer"; rewrote (a)3; and in (a)4, added "unless the member signs a waiver indicating that the member still wishes to withdraw" at the end.

SUBCHAPTER 4. PURCHASES AND ELIGIBLE SERVICE

17:5-4.1 Eligibility for purchase

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

(b) 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.114, effective March 20, 2000.

See: 32 N.J.R. 27(a), 32 N.J.R. 1047(b).

In (a), deleted "contributory" following "active" and added the last sentence; and added a new (b).

17:5-4.2 Optional purchases of eligible service

(a) The types of purchases indicated below will be calculated on the basis of the actuarial factor established for the member's age at the time of the purchase times the member's current salary:

1. Former State Police Retirement System membership credit: Service covered by former membership in this system will be included in the computation of retirement benefits in the same manner and value as current service. All or a portion of the service from a former membership may be included in the purchase of such service.

2. Former membership service established in another State-supported retirement system: Such service cannot be used to qualify for retirement under the minimum service requirements of 20 years at age 50 or "Special Retirement." All or a portion of the service from a former membership may be included in the purchase of such service. This service shall be included in the computation of a retirement allowance on the basis of one percent of final compensation for each year of such service credit.

3. Leaves of absence without pay: A member must request to purchase a leave of absence without pay within one year following the member's return to service. A member may purchase:

i. All or a portion of the period of the leave for personal reasons which is less than three months. Child care is considered a leave for personal reasons.

ii. All or a portion of 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.

Amended by R.2000 d.114, effective March 20, 2000.

See: 32 N.J.R. 27(a), 32 N.J.R. 1047(b).

In (a), in the introductory paragraph, substituted "the member's" for "his"; in 1., inserted "or a portion of" following "All" and substituted "may" for "must"; in 2., deleted "former members of the State Police Retirement and Benevolent Fund" following "to qualify", inserted "or a portion of" following "All", substituted "may" for "must" and added the last sentence; in 3., inserted "without pay:" and added the last two sentences; in 3.i., inserted "or a portion" following "All", substituted "is less than three months." for "does not exceed two months" and added the last sentence; in 3.ii., inserted "or a portion" following "All", deleted "or maternity" following "illness" and added the last sentence.

17:5-4.3 Methods of repayment

(a) Methods of repayment include the following:

1. Lump sum;
2. Partial lump sum; 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; and
5. Direct rollover/trustee-to-trustee transfer of funds: Lump sum payments and partial lump sum payments can include the direct rollover or transfer of tax-deferred contributions from financial plans that qualify under terms specified by the Internal Revenue Service. All payments remitted to the Division must be accompanied by properly completed forms as specified by the Division. Checks remitted to the Division without the required forms shall be returned to the member. A lump sum rollover payment for a purchase cannot exceed the lump sum cost of that

purchase. Checks in an amount greater than the lump sum cost of the purchase shall be returned to the member.

Amended by R.2003 d.5, effective January 6, 2003.

See: 34 N.J.R. 2958(a), 35 N.J.R. 230(a).

In (a)2, deleted "of \$250.00 or more".

Amended by R.2006 d.241, effective July 3, 2006.

See: 38 N.J.R. 1173(a), 38 N.J.R. 2885(a).

In (a)4, substituted "; and" for the period at the end; and added (a)5.

SUBCHAPTER 5. RETIREMENT

17:5-5.1 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) before the requested date of retirement.

(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 Division of State Police 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:

1. An application for a physical disability retirement must be supported by at least two medical reports, one by the member's personal or attending physician and the other

may be either hospital records supporting the disability or a report from a second physician; and

2. An application for a mental health medical disability retirement must be supported by at least two medical reports, one by the member's personal or attending psychiatrist or psychologist and the other in the form of either hospital records supporting the disability or a report from a second psychiatrist or psychologist or from the member's personal or attending physician or licensed clinical social worker.

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; rewrote section.

Amended by R.2007 d.13, effective January 16, 2007.

See: 38 N.J.R. 3285(a), 39 N.J.R. 238(a).

In the introductory paragraph of (d), inserted a colon following "through (c) above"; in (d), inserted designation 1; in (d)1, inserted "An" and "a physical", and substituted "; and" for a period at the end; and added (d)2.

17:5-5.2 Effective date; death prior thereto

(a) 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.

(b) A member who files an application for retirement and whose insurance coverage has not lapsed prior to filing the retirement application is covered under the insurance program as an active member in the event of death prior to the date the retirement allowance becomes due and payable.

Recodified from N.J.A.C. 17:5-5.3 and 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 "one month" for "30 days". Former N.J.A.C. 17:5-5.2, Effective dates; changes, recodified to N.J.A.C. 17:5-5.3.

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" 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 retire-

ment 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 retiree; 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.