

(f) Should the member continue to receive a salary beyond the effective date of retirement after approval of the retirement by the Board of Trustees, 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 approved, effective date of retirement.

#### Case Notes

Lack of good cause and diligence defeated request to reopen application for accidental disability benefits. *Stein v. Police and Firemen's Retirement System*, 96 N.J.A.R.2d (TYP) 198.

#### 17:4-6.3 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 30 days 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 a 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.

#### 17:4-6.4 Outstanding loan

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

1. In full before the retirement allowance becomes due and payable as provided in N.J.A.C. 17:4-6.3; or
2. By retention of retirement benefit payments, excluding authorized deductions, by the retirement system until the loan balance, with interest, is repaid.
  - i. Authorized deductions include Federal tax liens, health benefit premiums, and Federal income tax withholding. If the member does not request repayment in full, repayment is by retention of retirement benefits.

(b) A member who retires on a disability pension or because of medical illness or disability as determined by the board of trustees with an outstanding loan balance may repay the balance as follows:

1. In the manner prescribed in (a) above; or
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.
  - i. If a member who retires on a disability pension does not request another repayment option, repayment is by deductions in the same monthly amount deducted from the member's compensation immediately preceding retirement.

(c) A member whose retirement is other than a disability retirement and who wants to establish that the retirement is necessitated by medical illness or disability shall submit an application acceptable to the retirement system together with a report of the member's personal or attending physician and all other physicians' reports, hospital records or other medical evidence which the member can supply pertaining to the illness or disability. The medical evidence shall be sufficient to show to the satisfaction of the board of trustees that the member is totally and permanently disabled and would qualify on a medical basis for ordinary disability retirement. The board may require the member to be examined by a physician designated by the retirement system, and may refer the medical evidence to the medical panel for its report on whether the member is totally and permanently disabled and retirement is necessitated by medical illness or disability.

(d) If a retirant dies before the loan balance, with interest, is repaid, the remaining balance is paid first from the group life insurance proceeds, and then from the proceeds of any other benefits payable on account of the retirant in the form of monthly payments that are due to the beneficiary or estate. If multiple beneficiaries are to receive these benefits, each beneficiary shares in repaying the remaining balance in the same proportion in which they are entitled to the benefits.

#### 17:4-6.5 Willful negligence

(a) Willful negligence is defined as follows:

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.

#### 17:4-6.6 Retirement credit

(a) A member shall receive credit toward retirement for any month or biweekly pay period in which a full normal deduction is received by the system.

(b) A member who appeals the suspension or termination of his or her employment and is awarded back pay for all or a portion of his or her employment for the period of such suspension or termination shall receive retirement credit for the period covered by the award, regardless of the amount of the back pay awarded, provided a full normal pension contribution is received from the member or deducted from the value of the award. The amount of the pension contribution will be determined by the provisions of the award. If the member receives full back pay, including normal salary increases, then the contribution will be computed on the base salaries that the employee would have earned for the reinstated, suspended or terminated period. When the settlement is less than the full back pay, the pension contribution will be based upon the salary that the member was

receiving for pension purposes prior to the suspension or termination of employment. In the event that the amount of back payment is insufficient to deduct the value of the normal pension contributions due, such contribution shall be paid by the member.

(c) It is the responsibility of the certifying officer to provide a letter attesting to the base salary or salaries to be used to compute pension contributions and to provide a copy of the resolution or legal document that details the terms of the settlement.

#### 17:4-6.7 Disability determination

(a) A member for whom an application for accidental disability retirement allowance has been filed by the member, by his 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 member was under the normal retirement age at the time of filing application for a disability retirement allowance; and
2. The member is physically or mentally incapacitated for the performance of duty; and
3. The member is not eligible for accidental disability since the incapacity is not a direct result of a traumatic event occurring during and as a result of the performance of his regular or assigned duties; and
4. The member meets the service requirement for ordinary disability.

#### Case Notes

Police officer granted disability retirement for psychiatric disorder offered sufficient proof that he no longer suffered from disorder to support his reinstatement 15 years later. *Dascoli v. Police and Firemen's Retirement System*, 96 N.J.A.R.2d (TYP) 231.

Bus driver injured when patients fell on her in three unrelated incidents several days apart suffered qualifying traumatic event entitling her to award of accidental disability retirement benefits. *Harring v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 202.

Bus collision constituted traumatic event entitling driver to accidental disability retirement benefits. *Fullwood v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 200.

Former firefighter's application for disability retirement benefits was properly dismissed where applicant was not member in service at time of filing. *Kirwin v. Police and Firemen's Retirement System*, 96 N.J.A.R.2d (TYP) 183.

Corrections officer who was diagnosed as suffering from multiple sclerosis while receiving treatment for on-the-job tripping injury was not entitled to accidental disability retirement benefits. *McBride v. Police and Firemen's Retirement System*, 96 N.J.A.R.2d (TYP) 162.

Incident in which corrections officer was surrounded and threatened by prison inmates, and which resulted in officer's total psychiatric disability, constituted traumatic event entitling him to accidental disability retirement benefits. *Flume v. Police and Firemen's Retirement System*, 96 N.J.A.R.2d (TYP) 153.

#### 17:4-6.8 (Reserved)

#### 17:4-6.9 Average final compensation; 10 and 12-month members

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

1. Member reported on a monthly basis, use the creditable salaries upon which pension contributions were made to the retirement system for his last 36 months of service.