

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

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

Source and Effective Date

R.2001 d.128, effective March 22, 2001.
See: 33 N.J.R. 204(a), 33 N.J.R. 1205(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 5, State Police Retirement System, expires on September 18, 2006. See: 38 N.J.R. 1173(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: Source and Effective Date. See, also, section annotations.

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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.

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 after the member's death.

(d) All medical testimony obtained in connection with an application for disability retirement shall be restricted for the confidential use of the Board of Trustees. 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. In no event shall the report be released to any individual not authorized in writing to receive the report.

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.

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.

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".

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 Service and salary credit: awards of back pay

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

(b) A member who appeals the suspension or termination of the member's employment and who, by award or settlement, becomes entitled to back pay for all or a portion of the member's employment for the period of such suspension or termination shall receive service credit for the period covered by the award or settlement 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 or settlement. If the member receives full back pay, including normal salary increases before mitigation, 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 award or 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, after mitigation, is insufficient to deduct the value of the normal pension contributions due, such contribution shall be paid by the member.

(c) In no case shall service or salary credit be given to a member who appeals the suspension or termination of the member's employment if the award of back pay, before mitigation, is less than the value of the normal pension contributions due. If a member waives an award of back pay, then the member cannot receive service or salary credit for the period of the award.

(d) If the award or settlement is structured in such a way as to provide the member with a substantial increase of creditable salary at or near the end of the member's service, or a substantial increase in retirement benefits, the award or settlement shall be reviewed by the Board of Trustees. If the Board determines that the pension benefit was part of the negotiations for the award or settlement, or if the award or settlement includes extra compensation as defined by N.J.A.C. 17:5-3.1, the member shall have the contributions for the salaries based on the award or settlement refunded without interest, and the Board shall determine the compensation to be used to calculate the retirement allowance.

(e) 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.

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).

17:5-3.7 Eligibility for loan

Only active contributing members of the 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.

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.

17:5-3.8 Termination; withdrawal

(a) Under the terms of the statutes, a member may withdraw from the 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 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 or there is no legal action contemplated or pending and the dismissal has been adjudged final; or
4. The member has a claim pending for Workers' Compensation benefits.

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.

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.

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".

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 an application for 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.

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.

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.