

TITLE 17

TREASURY—GENERAL

CHAPTER 1

GENERAL ADMINISTRATION

Authority

N.J.S.A. 52:18A-96 et seq.

Source and Effective Date

R.1998 d.240, effective April 22, 1998.
See: 30 N.J.R. 1023(a), 30 N.J.R. 1847(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 1, General Administration, expires on October 19, 2003. See: 35 N.J.R. 387(a).

Chapter Historical Note

Chapter 1, General Administration, was adopted and became effective prior to September 1, 1969.

Subchapter 6, Judicial Pension Fund, was repealed by R.1973 d.258, effective September 12, 1973. See: 5 N.J.R. 292(d), 5 N.J.R. 358(b).

Subchapter 10, Prescription Drug Program, was adopted as R.1977 d.117, effective April 1, 1977. See: 9 N.J.R. 142(c), 9 N.J.R. 243(a).

Subchapter 11, Dental Expense Program, was adopted as R.1978 d.99, effective March 15, 1978. See: 10 N.J.R. 38(b), 10 N.J.R. 175(d).

Subchapter 12, Administrative Practices, was adopted as R.1982 d.350, effective October 18, 1982. See: 14 N.J.R. 329(a), 14 N.J.R. 1164(a).

Pursuant to Executive Order 66(1978), Chapter 1, General Administration, was readopted as R.1983 d.174, effective May 16, 1983. See: 15 N.J.R. 523(a), 15 N.J.R. 930(b).

Pursuant to Executive Order No. 66(1978), Chapter 1, General Administration, was readopted as R.1988 d.243, effective May 6, 1988. See: 20 N.J.R. 636(a), 20 N.J.R. 1208(a). Pursuant to Executive Order No. 66(1978), Chapter 1, General Administration, expired on May 6, 1993.

Pursuant to Executive Order No. 66(1978), Chapter 1, General Administration, was adopted as new rules by R.1993 d.376, effective August 2, 1993. See: 25 N.J.R. 1955(a), 25 N.J.R. 3506(a).

Pursuant to Executive Order No. 66(1978), Chapter 1, General Administration, was readopted as R.1998 d.240, effective April 22, 1998. See: Source and Effective Date. See, also, section annotations.

Subchapter 2, Alternate Benefit Program, was recodified as N.J.A.C. 17:7 by R.2001 d.159, effective May 21, 2001. See: 33 N.J.R. 988(a), 33 N.J.R. 1601(a).

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SUBCHAPTER 1. ACCOUNTING**17:1-1.1 Receipts deposited**

(a) All routine receipts as of noon of any working day, which are identifiable as to origin and propriety, are to be deposited the same day.

(b) All other checks are to be deposited as soon as possible.

(c) If checks are not in the amount of the billing and there is no dispute as to the amount involved, such checks will be returned to the remitter and the obligation will be considered as not having been paid; the remitter will be so advised.

Amended by R.1981 d.427, effective November 2, 1981.

See: 13 N.J.R. 616(c), 13 N.J.R. 779(d).

Added (c).

17:1-1.2 Remittance; limitation

The monthly transmittal remittances for pension contributions to the Division by employers shall be by electronic fund transfer (EFT). All other remittances to the Division shall be by check, bank draft or money order.

Amended by R.1998 d.241, effective May 18, 1998.

See: 30 N.J.R. 537(a), 30 N.J.R. 1847(b).

Rewrote the section.

17:1-1.3 Due dates for transmittals and reports

(a) Monthly remittances and transmittals for the Police and Firemen's Retirement System and the monthly remittances and reports for the Consolidated Police and Firemen's Pension Fund are due in the Division of Pensions the 10th day of the month following the close of the preceding month for which contributions are required.

(b) Monthly retirements and transmittals for the Public Employees' Retirement System, the Judicial Retirement System and the Teachers' Pension and Annuity Fund are due in the Division of Pensions from the State monthly locations and local employers the 10th day of the month following the close of the preceding month for which contributions are required.

(c) The monthly report to the carriers of the Alternate Benefit Program shall be due from the Centralized Payroll Unit on the 20th day of the month following the close of the preceding month for which deductions or reductions were required.

(d) Monthly reports for Alternate Benefit Program participants of county colleges and State monthly locations are due in the Division of Pensions the fifth day of the month following the close of the preceding month, with the exception that those institutions which are prepaying both the employer and employee contributions and have agreed to be completely accountable and responsible for the timely submission of such contributions shall submit the monthly reports to the Division of Pensions by the fifteenth day of the month following the close of the preceding month.

(e) Quarterly transmittals and reports, including the remittance for the third month of the calendar quarter, for the Police and Firemen's Retirement System are due in the Division of Pensions the 10th day of the month following the close of the preceding quarter.

(f) Quarterly transmittals and reports, including the remittance for the third month of the calendar quarter, for the Public Employees' Retirement System, the Judicial Retirement System and the Teachers' Pension and Annuity Fund are due in the Division of Pensions the 10th day of the month following the close of the preceding year.

(g) Payroll deductions for pension, contributory insurance and the Supplemental Annuity Program and salary reductions for the Tax Sheltered Supplemental Annuity Program shall be remitted on a biweekly basis immediately following the payroll payment dates for State employees reported by the Centralized Payroll System.

(h) Monthly remittances and transmittals for the State Health Benefits Program are due the 24th day of each month preceding the month for which such premium payments are required. Reporting agencies will be considered in default if premiums are not paid within the 31-day period, which begins on the first of the month following the due date for which premiums are required.

(i) Semi-monthly remittances and transmittals for Social Security are due in the State Agency for Social Security from all covered entities on the 5th day of the month representing contributions due for the last half of the preceding month and on the 20th day of the current month representing contributions due for the first fifteen days of the month. Annual reports and Federal forms are due in the State Agency for Social Security on February 1st, following the end of the preceding calendar year.

As amended, R.1971 d.16, effective February 1, 1971.

See: 3 N.J.R. 11(b), 3 N.J.R. 52(a).

As amended, R.1980 d.301, effective July 1, 1980.

See: 12 N.J.R. 351(a), 12 N.J.R. 497(c).

As amended, R.1982 d.491, effective January 17, 1983.

See: 14 N.J.R. 1290(a), 15 N.J.R. 95(b).

The Judicial Retirement System, added.

As amended, R.1983 d.546, effective November 21, 1983.

See: 15 N.J.R. 1457(a), 15 N.J.R. 1957(b).

Due days change from 1st to 5th day of month; exceptions articulated.

As amended, R.1983 d.599, effective January 17, 1984.

See: 15 N.J.R. 174(a), 16 N.J.R. 148(a).

(i) deleted and replaced with instructions about semi-monthly remittances and transmittals.

Amended by R.1986 d.86, effective April 7, 1986.

See: 18 N.J.R. 59(a), 18 N.J.R. 706(a).

Added text in (f) "Division of Pensions the 10th day of the".

17:1-1.4 Delinquent notices

(a) Reporting agencies which do not file timely reports, transmittals or remittances will receive a delinquent notice.

(b) In the event the employer does not respond to the delinquent notice, the group will be added to a list of the

delinquent agencies to be sent to the field service counselors, who will contact the delinquent employers to secure the data needed by the Division.

17:1-1.5 Interest charges; delinquent transmittals

(a) If payment in full, representing the monthly transmittal and report of contributions or charges is not made within 15 days of the due dates for such transmittals and reports, interest at the rate of six percent per annum shall commence to run against the total transmittal of contributions or charges for the period on the first day after such 15th day.

(b) The penalty will apply where the moneys have been forwarded but without the report necessary to distribute such moneys to the proper accounts.

As amended, R.1983 d.77, effective March 21, 1983.

See: 15 N.J.R. 80(b), 15 N.J.R. 448(b).

Reference to charges as well as contributions were added.

17:1-1.6 Disbursement authorizations

All checks disbursed, requiring the signature of the State Treasurer, are forwarded with signed authorizations to the Department of the Treasury.

17:1-1.7 Disbursement Schedules

(a) All disbursements, other than the regular pension payrolls, including the payment of loans, withdrawals and rebates should be made once a week.

(b) The pension payrolls are disbursed by the cash control section of the Treasury Department at the end of each calendar month.

As amended, R.1974 d.62, effective March 12, 1974.

See: 6 N.J.R. 84(a), 6 N.J.R. 158(b).

17:1-1.8 Disbursement; limitations

All disbursements returned by the Federal post office as "undelivered" shall be redeposited promptly. Disbursements shall be made by check, delivered by the Federal post office or as provided by the Director of the Division of Pensions.

As amended, R.1974 d.62, effective March 12, 1974.

See: 6 N.J.R. 84(a), 6 N.J.R. 158(b).

As amended, R.1975 d.235, effective August 1, 1975.

See: 7 N.J.R. 346(b), 7 N.J.R. 446(a).

As amended, R.1982 d.491, effective January 17, 1983.

See: 14 N.J.R. 1290(a), 15 N.J.R. 95(b).

(b) "accrue" changed to "accrue."

Amended by R.1985 d.348, effective July 1, 1985.

See: 17 N.J.R. 1068(a), 17 N.J.R. 1673(a).

(a) and (b) deleted.

Amended by R.1989 d.37, effective January 17, 1989.

See: 20 N.J.R. 2639(a), 21 N.J.R. 173(b).

Deleted text “and in no . . . the post office” and added “Disbursements shall be . . .”.

17:1-1.9 Adjustment statements

(a) Adjustment statements are mailed as audits are completed.

(b) Ten days after an overpayment notice is mailed a check is issued unless the employing agency offers an explanation for the variance.

(c) Overpayments are returned to the source from which they were received; however, for those overpayments covering State employees reported on a biweekly basis, multiple members, and on post audit overpayments, the member is made the payee.

(d) One month after shortage statements are mailed, a second notice is sent.

(e) One month after the second notice, a letter is sent advising the reporting agency that the shortage will be certified with interest as a back deduction or as an arrears obligation if payment is not received within 30 days.

(f) If the member is off the payroll so that such extra deduction cannot be certified, the shortage will be established in the member's account and will be subject to an interest charge of six percent per annum calculated from the date of the first notice forwarded to the member.

As amended, R.1974 d.62, effective March 12, 1974.
See: 6 N.J.R. 84(a), 6 N.J.R. 158(b).

17:1-1.10 Minimum adjustments

(a) In order to facilitate the reconciliation of members' accounts upon death, no rebates or additional contributions shall be made to a member's loan and arrearages balances if such adjustments involve amounts of \$10.00 or less. All bad balances of \$10.00 or less will be written off.

(b) Bad balances of \$50.00 or less in accounts that have been withdrawn will be written off. However, if a withdrawn member can satisfactorily prove with convincing documentation that monies are due from the withdrawn account, such refunds shall be made, notwithstanding the fact that the bad balance had been previously written off.

(c) A bad balance of \$50.01 to \$100.00 which is owed to a withdrawn member shall be paid without any further analysis of the member's account. Payment will be made to the employee and forwarded to the last employer of record.

(d) Rules concerning the bad balances in retirement accounts are as follows:

1. No rebates or additional contributions shall be made for retired members if the adjustments involve amounts that range from a positive to a negative \$5.00 for pensions and \$50.00 for contributory life insurance premiums. All balances within these ranges will be written off.

2. In the event the positive or negative balance is greater than \$5.00 for pensions but produces a monthly retirement adjustment of less than \$1.00, no recalculation or monthly benefits will be computed. Positive balances will be rebated and negative balances will be written off.

3. All money found to be due and payable subsequent to a member's retirement shall be repaid in one sum or scheduled for repayment within a period of 12 months. Any other schedule of repayment shall be referred to the Board of Trustees.

(e) Audit differences of \$2.00 or less in the reporting of members' pension contributions or contributory life insurance premiums during a quarter will not require a cash adjustment.

(f) Audit differences of \$8.00 or less in the reporting of members' pension contributions or contributory life insurance premiums covering an annual period are not subject to cash adjustments.

Amended by R.1982 d.470, effective January 3, 1983.
See: 14 N.J.R. 1200(a), 15 N.J.R. 36(b).

Minimum adjustments changed from less than \$1.00 to \$2.00 or less in a quarter and from \$3.00 to \$8.00 or less in a calendar year. Amended by R.1985 d.8, effective February 4, 1985.

See: 16 N.J.R. 3192(a), 17 N.J.R. 320(a).

Substantially amended.

Amended by R.1985 d.442, effective September 3, 1985.

See: 17 N.J.R. 1642(b), 17 N.J.R. 2144(b).

Deleted "A member's retirement . . . by more than \$100.00." and inserted "In the event . . . will be rebated." in subsection (b).

Amended by R.1987 d.108, effective February 17, 1987.

See: 18 N.J.R. 2377(a), 19 N.J.R. 380(a).

Amended by R.1987 d.317, effective August 3, 1987.

See: 19 N.J.R. 446(a), 19 N.J.R. 447(a), 19 N.J.R. 1456(a).

Substantially amended.

Amended by R.1988 d.68, effective February 16, 1988.

See: 19 N.J.R. 2129(a), 20 N.J.R. 408(a).

Old (c) repealed and new (c) inserted.

Amended by R.1988 d.427, effective September 6, 1988.

See: 20 N.J.R. 1181(a), 20 N.J.R. 2310(b).

Added new (c); renumbered existing (c)-(e) as (d)-(f).

Amended by R.1990 d.518, effective November 5, 1990.

See: 22 N.J.R. 1348(b), 22 N.J.R. 3386(c).

Repayment requirements added at (d)3.

Amended by R.1993 d.114, effective March 15, 1993.

See: 24 N.J.R. 4501(a), 25 N.J.R. 1228(b).

Revised (d)1 and 2.

17:1-1.11 Mail distribution

(a) All mail sent to the Division of Pensions will be received, opened and sorted by the mail section, with the exception of registered or certified mail which will be sent directly to the addressee.

(b) The mail section will send all correspondence to the appropriate administrative bureau in the division, where the correspondence should be acknowledged or answered within five working days of its receipt in the administrative bureau.

As amended, R.1974 d.62, effective March 12, 1974.

See: 6 N.J.R. 84(a), 6 N.J.R. 158(b).

As amended, R.1975 d.235, effective August 1, 1975.

See: 7 N.J.R. 346(b), 7 N.J.R. 446(a).

17:1-1.12 Annual statements; retirement system

(a) Statements of account are mailed annually to employers for active members who contributed to the Public Employees Retirement System, the Police and Firemen's Retirement System and the State Police Retirement System during the second quarter of a calendar year.

(b) Statements of account are mailed annually to employers for active members who contributed to the Teachers' Pension and Annuity Fund during the last quarter of a calendar year.

(c) Interim statements will not be supplied except upon written request for good cause.

17:1-1.13 Annual statements; supplemental annuity

(a) Statements of accounts are mailed annually to employers for participants of the Tax Sheltered and Nontax Sheltered Supplemental Variable Annuity Programs, who contributed to the program as of June 30.

(b) Interim statements will not be supplied except upon written request for good cause.

17:1-1.14 Annual reports of salary changes

(a) Employers are provided with one copy of the report of salary changes.

(b) The report of salary changes will be sent to reporting agencies of the Public Employees Retirement System except boards of education, and the Police and Firemen's Retirement System with their quarterly report for the fourth quarter.

(c) The reporting agencies must file the report of salary changes with the Division by February 1.

(d) The report of salary changes will be sent to boards of education with their quarterly reports for the second quarter.

(e) The reporting districts must file the report of salary changes with the Division by August 1.

(f) A report of salary change may be filed with the Division during any quarter of the calendar year. Such report of salary change must be filed on or before the tenth day of the second month of the quarter to assure timely projection for the next quarterly report of contributions.

Amended by R.1982 d.358, effective October 18, 1982.
See: 14 N.J.R. 200(a), 14 N.J.R. 1163(c).

Salary change may be filed during any calendar quarter.

17:1-1.15 Endorsements

(a) In cases where incapacity prevents a complete personal endorsement, but the member or beneficiary is able to make his mark, this is acceptable providing the signature of two witnesses appear on the check. Such witnesses' signatures and the member's mark must be registered with the Division on a signature card. In addition, a doctor's certificate should be filed with the Division indicating that the member or beneficiary is physically but not mentally incapable of endorsing the check.

(b) In cases where a member or beneficiary is mentally or physically incompetent, the appointment of a legal guardian, conservator or committee will be required. The Division must be supplied with a copy of the legal document and the guardian's signature must be registered with the Division on a signature card. In cases where an incompetent retired member or beneficiary is confined to a State institution in New Jersey (under Department of Human Services) in lieu of guardianship, his or her retirement allowance may be continued upon court order (N.J.S.A. 30:4-67 et seq.) directing the retirement system to make payment to the chief administrative officer for the use and care of said member or beneficiary during the period of confinement.

(c) Under certain conditions, the Division will honor an agreement executed between a retirant or beneficiary and a bank, savings and loan association, insured Federal credit union or insured State chartered credit union, with such institution assuming full responsibility for the receipt and collection of the pension checks in the absence of the personal endorsement of the retirant or beneficiary. The agreement must be consummated on the appropriate approved form which will be provided for this purpose by the retirement system. The agreement cannot be executed where a retirant or beneficiary is mentally or physically incompetent, or where the allowance will be deposited in an account other than their personal account.

(d) A person holding a power of attorney will be permitted to endorse a check payable to such person as attorney for the retirant or beneficiary. However, a power of attorney form prescribed by the Division must be duly executed before the attorney's signature will be accepted as a proper endorsement on a check issued to the retirant or beneficiary.

(e) Retirants and beneficiaries will periodically be requested to complete a card, requiring notarization, which indicates their social security number, date of birth, and signature; if circumstances prevent notarization, two witnesses may be accepted in lieu of notarization. In the event the Division does not receive the notarized signature card within 45 days, a final request will be sent to the retirant or beneficiary, advising him that if it is not returned within 30 days, his monthly benefits will be suspended until a personally endorsed, notarized card has been received.

Amended by R.1974 d.219, effective August 8, 1974.

See: 6 N.J.R. 277(a), 6 N.J.R. 360(a).

Amended by R.1975 d.385, effective December 31, 1975.

See: 7 N.J.R. 577(c), 8 N.J.R. 88(a).

Amended by R.1976 d.95, effective March 26, 1976.

See: 8 N.J.R. 140(b), 8 N.J.R. 262(a).

Amended by R.1979 d.169, effective May 1, 1979.

See: 11 N.J.R. 209(b), 11 N.J.R. 304(d).

Amended by R.1981 d.85, effective March 6, 1981.

See: 13 N.J.R. 109(a), 13 N.J.R. 247(c).

(b) "Human Services" was "Institutions and Agencies".

Amended by R.1982 d.20, effective February 1, 1982.

See: 13 N.J.R. 883(a), 14 N.J.R. 161(b).

(c) Added "savings and loan . . . credit union"; deleted "the bank"; added "such institution".

17:1-1.16 Lost pension checks

(a) Upon receiving notification that a retirant or other payee has not received a particular check for whatever reason, the Division of Pensions and Benefits shall send the payee an affidavit of non-receipt for completion.

1. Upon receipt of the affidavit of non-receipt, the Division shall send a stop payment order to the bank upon which the check was drawn. However, if theft is alleged, a stop payment order shall be sent to the bank immediately upon notification of the alleged theft.

2. Upon receipt of an acknowledgment from the bank of the stop payment notice, the Division shall issue a replacement check.

3. If the payee refuses to execute the affidavit, the procedure set forth in this subsection will be followed but a replacement check will not be issued until 90 days after the check date have passed.

(b) The Division of Pensions and Benefits, upon being notified that the retirant has not received a particular check, shall review its canceled check file.

1. If the check has been paid, a copy of the check, together with a forged check affidavit, shall be sent to the retirant.

2. Upon receipt from the retirant of the properly executed affidavit and issuance of a credit by the bank to the account, a replacement check shall be issued.

Repeal and New Rule, R.1994 d.416, effective August 15, 1994.
See: 26 N.J.R. 2200(b), 26 N.J.R. 3460(c).

17:1-1.17 Administrative expenses; proration among systems

(a) Not later than 60 days after receipt of the expenditures by account the Division of Pensions will prepare a complete fiscal statement indicating the administrative expenses incurred by the Division within its State appropriation for the previous fiscal year, the year ending the prior June 30:

1. Such statement will reflect the total expenses incurred in each account within the Division's appropriation.

2. Supplemental statements will be prepared allocating specific costs attributable to each of the retirement programs within the operation of the respective bureaus.

3. The costs specifically attributable to the Bureau of Police and Fire Funds and other costs specifically attributable to the four retirement systems administered by this Bureau will be itemized in a supplemental statement dividing the cost between the several systems on the basis of the *pro rata* membership of these systems.

4. A supplemental statement will also be prepared pertaining to specific costs attributable to the Teachers' Pension and Annuity Fund and the Public Employees' Retirement System, including the work of the Office of Secretarial Services and other specific costs which will likewise be divided on a *pro rata* basis determined by the respective membership of these systems.

5. Supplemental statements will be prepared pertaining to other specific programs, such as the State Agency for Social Security and the State Health Benefits Program, and so forth.

6. Included in the administrative expenses incurred by the Division shall be those of the State Division of

Investment as the expenses of that division pertain to the investment of monies appropriate to each retirement system or fund calculated on the number of transactions processed for the respective systems.

(b) To the extent that there are costs which are attributable to the Division as a whole, as distinguished from costs attributable to each separate program administered by the division, all systems will share in the cost of the Division's expenses also on a *pro rata* basis.

(c) Such statements will be quoted to the board or commission of each system with the appropriate voucher request for reimbursement to the State.

Amended by R.1975 d.30, effective February 14, 1975.
See: 7 N.J.R. 33(a), 7 N.J.R. 122(a).
Amended by R.1984 d.559, effective December 17, 1984.
See: 16 N.J.R. 2420(a), 16 N.J.R. 3478(b).

Deleted "November 15 of each year" and substituted "60 days after receipt of the expenditures by account".
Amended by R.1986 d.425, effective October 20, 1986.
See: 18 N.J.R. 1686(a), 18 N.J.R. 2135(a).

Deleted "Chief of Administrative Services" and "on a *pro rata* . . . of each system" and substituted "on the number . . . the respective systems."

17:1-1.18 Manual charge

(a) One copy of the employee benefit manual will be issued without charge to certain officers of the State, other interested agencies to members of the several boards and commissions, certain employees of the Division of Pension and to each certifying officer of the State and local government employers participating in the several systems administered by the Division of Pensions.

(b) A supply will be printed to provide additional copies at a price sufficient to cover printing, handling and postage and those requests will be honored as the remaining supply permits.

(c) Charges for copies of pension records which have been deemed to be public information will be made in accordance with the provisions of N.J.S.A. 47:1A-2.

R.1971 d.16, effective February 1, 1971.
See: 3 N.J.R. 11(b), 3 N.J.R. 52(a).
Amended by R.1977 d.32, effective February 8, 1977.
See: 9 N.J.R. 43(b), 9 N.J.R. 147(c).
Amended by R.1982 d.491, effective January 17, 1983.
See: 14 N.J.R. 1290(a), 15 N.J.R. 95(b).
"Agent" changed to "officer".

Case Notes

Petition to purchase pension credit for prior temporary service after expiration of statutory filing limitation denied: Public Employees' Retirement System held without statutory obligation to disseminate to certifying agents amendatory legislation concerning the retirement system at the time of enactment. In re Krah, 130 N.J.Super. 366, 327 A.2d 248 (App.Div.1974).

17:1-1.19 Retired employees; health insurance charges

(a) If possible, whenever any beneficiary of the Public Employees' Retirement System, Teachers' Pension and Annuity Fund, Police and Firemen's Retirement System, State Police Retirement System, Judicial Retirement System, Consolidated Police and Firemen's Pension Fund, Prison Officer's Pension Fund or Central Pension Fund authorizes deductions from the retirement allowance checks for coverage under the State Health Benefits Program, the Division may make the deductions and transmit them to the State Health Benefits Program.

(b) The authorization may be withdrawn by filing an application to terminate coverage and deductions.

R.1974 d.62, effective March 12, 1974.

See: 6 N.J.R. 84(a), 6 N.J.R. 158(b).

As amended, R.1982 d.491, effective January 17, 1983.

See: 14 N.J.R. 1290(a), 15 N.J.R. 95(b).

"Premiums" changed to "charges".

Amended by R.1990 d.395, effective August 6, 1990.

See: 22 N.J.R. 1347(b), 22 N.J.R. 2342(a).

PERS, Teacher's Fund, Police and Fire, State Police and Judicial Retirement Systems added at (a).

17:1-1.20 State employees; biweekly salaries

(a) 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.

(b) In the event a member is reported on a combination of monthly and biweekly pay periods, his last year's salary or final compensation as well as his service credit will be computed on a proportional basis.

R.1974 d.62, effective March 12, 1974.

See: 6 N.J.R. 84(a), 6 N.J.R. 158(b).

17:1-1.21 Discontinuance of allowance

In the event a retirant, beneficiary or their designated representative fails to furnish within a five-month period the information requested by the division to continue paying monthly benefits, a final request will be sent by certified mail advising him that if the information is not received within one month the monthly benefit and all deductions from such benefit will be suspended until the requested information is received.

R.1975 d.235, effective August 1, 1975.

See: 7 N.J.R. 346(b), 7 N.J.R. 446(a).

As amended, R.1976 d.338, effective October 28, 1976.

See: 8 N.J.R. 489(c), 8 N.J.R. 586(b).

As amended, R.1979 d.169, effective May 1, 1979.

See: 11 N.J.R. 209(b), 11 N.J.R. 304(d).

Amended by R.1990 d.395, effective August 6, 1990.

See: 22 N.J.R. 1347(b), 22 N.J.R. 2342(a).

Reference to Pensioner's Group Health Insurance deleted.

17:1-1.22 (Reserved)

R.1976 d.338, effective October 28, 1976.

See: 8 N.J.R. 489(c), 8 N.J.R. 586(b).

Repealed by R.1990 d.395, effective August 6, 1990.

See: 22 N.J.R. 1347(b), 22 N.J.R. 2342(a).

Section was Disability earnings; Pensioners' Group Health Insurance Plan.

17:1-1.23 (Reserved)

R.1976 d.338, effective October 28, 1976.

See: 8 N.J.R. 489(c), 8 N.J.R. 586(b).

Repealed by R.1990 d.395, effective August 6, 1990.

See: 22 N.J.R. 1347(b), 22 N.J.R. 2342(a).

Section was Beneficiary or Survivor; Pensioners' Group Health Insurance Plan.

17:1-1.24 (Reserved)

R.1982 d.59, effective March 1, 1982.

See: 14 N.J.R. 35(b), 14 N.J.R. 237(d).

As amended, R.1982 d.346, effective October 18, 1982.

See: 14 N.J.R. 328(a), 14 N.J.R. 1163(d).

Pensioner permitted to continue coverage delineated and employee's termination automatically terminates coverage of dependent.

Repealed by R.1990 d.395, effective August 6, 1990.

See: 22 N.J.R. 1347(b), 22 N.J.R. 2342(a).

Section was Amount of coverage; termination; Pensioners' Group Health Insurance Plan.

SUBCHAPTER 2. (RESERVED)**Subchapter Historical Note**

Subchapter 2, Alternate Benefit Program, was recodified as N.J.A.C. 17:7 by R.2001 d.159, effective May 21, 2000. See: 33 N.J.R. 988(a), 33 N.J.R. 1601(a).

SUBCHAPTER 3. CENTRAL PENSION FUND**17:1-3.1 Application required**

For retirement of State employees under the Veterans Retirement Act (N.J.S.A. 43:4-1 et seq.) or the Health Act (N.J.S.A. 43:5-1 et seq.) an application on a form provided by the Division of Pensions must be prepared by the employee, certified by the employing agency and filed with the Division of Pensions.

Case Notes

Former public employee not entitled to veterans' retirement benefits where he lost public employment position prior to reaching age 62. *Gerber v. Board of Trustees, Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 135.

17:1-3.2 Disability certification form

Where disability is the cause for the pension, a certification of the disability by a physician on a form provided by the Division of Pensions must be filed with the Division of Pensions.

17:1-3.3 Proof of veteran's status

Evidence of veteran's status and honorable discharge must accompany the application under the Veterans Retirement Act.

17:1-3.4 Withholding forms

A Federal form, W-4, "Employee's Withholding Exemption Certificate", must be filed with the Division of Pensions.

17:1-3.5 Surrogate's certification

(a) When a pensioner dies and a residual benefit is payable, the claimant shall file an appropriate certification from the Surrogate's Office with the Division of Pensions.

(b) No such certification will be necessary in the case of the Health Act where there is a named beneficiary surviving the pensioner.

(c) A death certificate and a form for payment will also be required.

rate of contribution will be redetermined and his contributions adjusted, and the member's beneficiary designation may be accepted provided the member has signed the enrollment application.

(c) In the event of the member's death where no benefits are payable to a specific survivor, all benefits otherwise payable would be paid to his estate since the employee has not made the necessary beneficiary designation which is part of the enrollment application.

(d) For the purpose of establishing an employer's liability on delinquent filed enrollment applications, as well as the member's requirement to prove insurability, one year shall cover the 12-month period elapsing between the employee's date of enrollment or transfer and the date pension contributions are certified to begin, plus an additional two months to allow for administrative processing time.

As amended, R.1981 d.85, effective March 6, 1981.

See: 13 N.J.R. 109(a), 13 N.J.R. 247(c).

(b): "certifying officer" was "certifying agent".

17:1-4.3 Multiple enrollments; contributions

(a) In some retirement systems an employee may be enrolled in the system on the basis of more than one position with more than one employer participating in the retirement program. Within the limits of the statute and board regulations such an employee shall be required to enroll from each position and the employee's rate of contribution shall be based on the earliest enrollment date that may be assigned.

(b) For multiple members, the division will make the determination as to which employer shall use the two percent credit in computing pension contributions.

17:1-4.4 Enrollment schedules

(a) Employees appointed on or after the 17th of a month will be enrolled as of the first of the following month.

(b) An optional enrollee is enrolled as of the first of the month following the date the enrollment application is received.

As amended, R.1971 d.16 effective February 1, 1971.

See: 3 N.J.R. 11(b), 3 N.J.R. 52(a).

Amended by R.1987 d.76, effective February 2, 1987.

See: 18 N.J.R. 2320(a), 19 N.J.R. 304(a).

Deleted text "unless otherwise specified by the employee."

Case Notes

New Jersey pension credit; working from 17th of month to end of month. *Thompson v. Board of Trustees of the Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 166.

17:1-4.5 Proof of veteran's status

A member who fails to submit evidence of his military discharge will be enrolled as a nonveteran and his nonveteran classification will not be altered until such time as his

SUBCHAPTER 4. CLAIMS AND CREDIT
17:1-4.1 Records

(a) The records of all employee benefit programs administered by the Division of Pensions are public records and may be inspected during regular business hours at the office of the respective bureau, and under supervision of the Bureau Chief or other representatives of the office.

(b) Records considered confidential include medical reports submitted for any purpose, mailing addresses of active and retired members, individual files pertaining to beneficiary designation and any other matters pertaining to individual accounts where no official purpose or reason is indicated for inspection.

17:1-4.2 Compulsory enrollments; failure to enroll

(a) In most retirement systems there are employees who are required to enroll as a member of the retirement system as a condition of employment.

(b) In some cases the employee may fail to file an application for enrollment even though he and his employer have been advised of the compulsory nature of enrollment. In these cases the certifying officer is obligated to complete the employee's section of the enrollment application as well as such other information prescribed on the enrollment application. However, where an employer fails to complete the information prescribed by the enrollment application, the employee will be enrolled and assigned the highest possible rate of pension contribution. Upon receipt of a properly completed enrollment application, the member's

military discharge papers are received, confirming his eligibility for a veteran classification.

Case Notes

Lack of required service on active duty disqualified employee for pension status as a military veteran. *Small v. Retirement System*, 93 N.J.A.R.2d (TYP) 239.

17:1-4.6 Intrafund transfers

A member of the Teacher's Pension and Annuity Fund, the Police and Firemen's Retirement System or the Public Employees' Retirement System who terminates employment with one participating employer but transfers to a similar position with another participating employer may continue such membership without interruption.

As amended, R.1982 d.491, effective January 17, 1983.
See: 14 N.J.R. 1290(a), 15 N.J.R. 95(b).

The Police and Firemen's Retirement System added.

Case Notes

School maintenance worker entitled to transfer of service credit from Public Employees' Retirement System to Teachers' Pension and Annuity Fund; failure to enroll was employer's mistake. *Tolotti v. Teachers' Pension and Annuity Fund*, 92 N.J.A.R.2d (TYP) 71.

17:1-4.7 Insurance coverage; ineligibility

Any member who is not eligible for noncontributory insurance shall also be ineligible for contributory insurance coverage.

17:1-4.8 Deduction schedules

All deductions will be certified to begin on the first of the month for quarterly reporting units, or the beginning of a biweekly pay period for members who are paid by the State Centralized Payroll section.

17:1-4.9 Multiple beneficiaries

Where a member has designated more than one beneficiary, in the absence of a specific request, the payment will be made to the beneficiaries on a "share and share alike, survivor or survivors" basis.

17:1-4.10 Compulsory purchase; employee notice

When an employee is required to make a substantial purchase even though he is an optional enrollee, he will be required to sign a written agreement to purchase the service before his enrollment application will be processed.

17:1-4.11 Purchase terms; computation; employee pay-all

(a) A member who requests a purchase at the time of his enrollment will have the cost of purchase based on his age and salary on the date normal pension contributions are certified to begin.

(b) A member, eligible for the purchase of service after his membership has been established, who desires to purchase service which requires a certification of his public employment, will receive a purchase quotation based on his age and salary on the date the service certification is received; if proof of age is also required, the purchase quotation will be based on the date the proof of age or the service certification is received, whichever is later.

(c) Pursuant to the provisions of Chapter 7, Laws of 1981, the following shall apply:

1. At the time of purchase request, an estimated cost for purchase of service will be calculated based on factors supplied by the actuary. This cost will be communicated to the member in a manner such that is clearly understood that an additional lump sum cost may be required at retirement to consummate the purchase.

2. Upon application by the member for retirement, the actual cost of the service purchased will be calculated. The difference between this actual cost and any monies accumulated based upon the estimated cost will have to be paid in a lump sum.

3. If a required final payment is not made but the member is eligible to retire based on actual service, the purchase will be cancelled, the member will be retired with a benefit based on actual service, and any monies accumulated for the purchase will be refunded.

4. If a required final payment is not made and the member is not eligible to retire based on actual service, the application for retirement will not be approved pending completion of the purchase.

(d) Pursuant to the provisions of Chapter 451, Laws of 1981, and Chapter 198, Laws of 1983, the following shall apply:

1. At the time of purchase request, an estimated cost for purchase of service will be calculated based on factors

supplied by the actuary. This cost will be communicated to the member in a manner that is clearly understood that an additional lump sum cost may be required at retirement to consummate the purchase.

2. Upon application by the member for retirement, the actual cost of the service purchased may be calculated. The difference between this actual cost and any monies accumulated based upon the estimated cost may have to be paid in a lump sum.

3. If a required final payment is not made, but the member is eligible to retire, the member will be retired with a benefit based on a pro rata service.

(e) Pursuant to the provisions of Chapter 223, Laws of 1984, the following shall apply:

1. At the time of purchase request, an estimated cost for purchase of service will be calculated based on factors supplied by the actuary. This cost will be communicated to the member in a manner such that is clearly understood that an additional lump sum cost may be requested at retirement to consummate the purchase.

2. Upon application by the member for retirement, the actual cost of the service purchased will be calculated. The difference between this actual cost and any monies accumulated based upon the estimated cost will have to be paid in a lump sum if the member wishes to receive full credit for the total amount of service involved in the purchase.

3. If a required final payment is not made by the member at the time of retirement, such member will receive a pro rata credit for the service purchased under the provisions of Chapter 223, Laws of 1984, prior to the date of retirement.

As amended, R.1979 d.343, effective September 10, 1981.
See: 13 N.J.R. 459(a), 13 N.J.R. 617(a).

(c) added.

As amended, R.1982 d.347, effective October 18, 1982.
See: 14 N.J.R. 328(b), 14 N.J.R. 1163(c).

Changes pursuant to provisions of Chapter 451, Laws of 1981 concern purchases and final payments of outstanding amounts at retirement.

As amended, R.1983 d.416, effective October 3, 1983.
See: 15 N.J.R. 1238(a), 15 N.J.R. 1688(c).

Reference to Chapter 198, Laws of 1983.

Amended by R.1985 d.321, effective June 17, 1985.

See: 17 N.J.R. 900(a), 17 N.J.R. 1586(a).

(e) added.

Amended by R.1985 d.659, effective January 6, 1986.

See: 17 N.J.R. 2529(b), 18 N.J.R. 93(b).

(e)2 added the text "if the member . . . in the purchase": old 3.-4. deleted and new 3 added.

Case Notes

Petition to purchase pension credit for "paternity" or childcare leave of absence denied because leave was in excess of three months duration and not otherwise purchasable under statutory provision allowing for purchase of maternity leave: maternity found to refer solely to the state of being pregnant (Board's Final Decision). *Chaleff v. Bd. of Trustees*, Teachers' Pension and Annuity Fund, 3 N.J.A.R. 317 (1981).

affirmed 188 N.J.Super. 194, 457 A.2d 33 (App.Div.1983), certification denied 94 N.J. 573, 468 A.2d 215 (1983).

17:1-4.12 Purchase terms; grace period

A member who receives a written optional purchase cost quotation is given a 60-day grace period to confirm that he or she wishes to make the purchase of credit. If the confirmation of the purchase is not received from the member within 60 days, the cost of purchase must be recalculated to determine if any change in the cost is warranted as a result of change in age or salary.

Amended by R.1993 d.81, effective February 16, 1993.
See: 24 N.J.R. 4239(b), 25 N.J.R. 710(c).
Revised text.

Case Notes

Mistaken denial of original application for purchase of prior service credit did not entitle employee to make purchase at price quoted more than five years earlier. *Preston v. Board of Trustees, Public Employees' Retirement System*. 93 N.J.A.R.2d (TYP) 41.

17:1-4.13 Purchases; cancellation, interest on outstanding purchases or cash discount requested

(a) A member who authorizes a purchase of service credit may cancel that purchase at any time on a prospective basis only. No refunds will be made of any lump sum payments, partial payments or installment payments. The member will receive a pro rata credit for the service purchased to the date installment payments cease. Any subsequent requests to purchase the remaining service credit shall be based on the laws and rules in effect on the date that the subsequent request is received.

(b) No more than one request received from a member for the cash discount value of an outstanding arrearage or a purchase quotation for previous service will be honored in a calendar year.

(c) A member who authorizes a purchase which requires installment payments, but who has not had installment payments made toward that purchase for two years due to inactivity in the account, shall be informed by the Division that the remainder of the purchase will be canceled. The member shall receive a pro rata credit for the service purchased to the date that the installment payments ceased. The member may request to pay the cash discount value of the outstanding arrearage for the purchase in full within 60 days of the Division notice. Any subsequent requests to purchase the remaining service credit shall be based on the laws and rules in effect on the date that the subsequent request is received.

(d) A member returning from an approved leave of absence after two years may request that the original purchase be resumed. Such purchase shall be recalculated to include additional regular interest accrued between two years after the date of the last installment payment and the date the purchase is resumed.

(e) For a member who has authorized a purchase of service credit prior to September 8, 1998 and who is inactive, or becomes inactive, the purchase shall remain outstanding. The outstanding balance on the purchase shall include additional regular interest beginning September 8, 2000, or the date of inactivity, whichever is later.

Amended by R.1980 d.302, effective July 1, 1980.
See: 12 N.J.R. 352(a), 12 N.J.R. 497(d).
Amended by R.1982 d.469, effective January 3, 1983.
See: 14 N.J.R. 1201(b), 15 N.J.R. 36(c).
Amended by R.1998 d.437, effective September 8, 1998.
See: 30 N.J.R. 1916(a), 30 N.J.R. 3257(b).
Rewrote (a); and added new (c), (d), and (e).
Amended by R.1999 d.80, effective March 1, 1999.
See: 30 N.J.R. 4146(a), 31 N.J.R. 668(a).
Rewrote (e).

Case Notes

Regulation prohibited refund of money used to purchase active military service credit when employee decided not to retire early. *Kanczewski v. Board of Trustees of the Public Employees' Retirement System*, 92 N.J.A.R.2d (TYP) 102.

Cancellation of previously requested military service credit deduction prohibited by rule. *DiMarco v. Board of Trustees, Police and Firemen's Retirement System*, 92 N.J.A.R.2d (TYP) 81.

Purchaser of military service credit not entitled to refund when he elected to continue in employment. *Mastroni v. Board of Trustees*, 92 N.J.A.R.2d (TYP) 50.

17:1-4.14 Withdrawal application; processing

Withdrawal applications which are filed prior to the member's resignation or the termination of compensation, will not be processed until the effective date of the later of the two conditions.

17:1-4.15 Withdrawal; waiver required

A member eligible for retirement benefit who applies to withdraw his contributions in one sum, is forwarded a statement of the monthly retirement allowance to which he could otherwise qualify, and the related insurance coverage. He is required to sign a waiver of such benefits before an application for withdrawal can be processed.

17:1-4.16 Retirement quotations

(a) A member who applies for retirement without having received a preliminary quotation of retirement benefits, will be sent a statement of the benefits he can receive under both maximum allowance and option 1, where applicable; if such an individual has elected a particular option, all options will be quoted to him for which he has submitted the information necessary for the quotation regardless of the selection he may have made on his retirement application.

(b) If no response is received from the member prior to the date his retirement application must be submitted to the board for approval, the maximum allowance or option selected by the member on his original retirement application will be submitted to the board for its approval.

As amended, R.1971 d.16, effective February 1, 1971.
See: 3 N.J.R. 11(b), 3 N.J.R. 52(a).
As amended, R.1974 d.62, effective March 12, 1974.
See: 6 N.J.R. 84(a), 6 N.J.R. 158(b).

17:1-4.17 Retroactive salary increases

In no event will individual retroactive salary adjustments that have been authorized after the member's effective date of retirement or date of death be used as creditable salary for pension or insurance purposes even if the period covered by the salary adjustment extends to a period before the member's effective date of retirement or date of death.

As amended, R.1974 d.62, effective March 12, 1974.
See: 6 N.J.R. 84(a), 6 N.J.R. 158(b).

17:1-4.18 Final compensation

(a) In computing retirement benefits salary increments in excess to 15 percent over the previous year's salary preceding retirement may be considered as possibly a violation of the statute governing the definition of final compensation and all such cases should be investigated.

(b) Those cases where a violation of the statute is suspected shall be referred to the respective board or commission.

Case Notes

Borough attorney's salary increase did not result from creation of new position and statute limiting compensation to be used for pension calculation was applicable. *DiMaria v. Board of Trustees of Public Employees' Retirement System*, 225 N.J.Super. 341, 542 A.2d 498 (A.D.1988) certification denied 113 N.J. 638, 552 A.2d 164.

Obligation to exclude salary adjustments from compensation is not limited to salary increases granted in the year immediately preceding retirement. *DiMaria v. Board of Trustees of Public Employees' Retirement System*, 225 N.J.Super. 341, 542 A.2d 498 (A.D.1988) certification denied 113 N.J. 638, 552 A.2d 164.

ALJ was not precluded from considering whether increase in member's salary more than one year preceding retirement was granted primarily in anticipation of retirement. *DiMaria v. Board of Trustees of Public Employees' Retirement System*, 225 N.J.Super. 341, 542 A.2d 498 (A.D.1988) certification denied 113 N.J. 638, 552 A.2d 164.

Increase in salary from \$18,000 to \$55,000 was granted primarily in anticipation of retirement. *DiMaria v. Board of Trustees of Public Employees' Retirement System*, 225 N.J.Super. 341, 542 A.2d 498 (A.D.1988) certification denied 113 N.J. 638, 552 A.2d 164.

Teacher's lump sum death benefit based on final year of creditable service, not highest paid year. *Bush v. Teachers' Pension and Annuity Fund*. 92 N.J.A.R.2d (TYP) 157.

Application for veteran retirement benefits invalid as result of continued employment as municipal attorney, despite change in method of compensation. *Mastro v. Board of Trustees, Public Employees' Retirement System*, 92 N.J.A.R.2d (TYP) 123.

Salary paid township counsel during three years before retirement was paid primarily in anticipation of retirement, and thus ineligible compensation for pension purposes. *Mangini v. Trustees of Public Employees' Retirement System*, 92 N.J.A.R.2d (TYP) 43.

17:1-4.19 Biweekly salary computation; retirement and death benefits (final compensation or last year's salary)

(a) In computing the salary upon which pension contributions were based during a member's last year of service, in the case of a 12-month State employee reported on a biweekly basis, a total of 26 biweekly pays will be used, including any retroactive salary payments made within the prescribed period.

(b) In computing final compensation upon which pension contributions were based, in the case of a 12-month State employee reported on a biweekly basis, a total of 78 biweekly pays will be used, including any retroactive salary payments made within the prescribed period.

(c) In order to compute (a) and (b) above for biweekly State employees who are paid by centralized payroll, the actuary will supply factors to convert biweekly salaries to compensate for State biweekly payroll schedules. Application of the factors to the salaries reported for pension purposes will develop the wage base for the calculation of benefits.

(d) In computing (a) and (b) in the case of State employees reported on a 10-month basis, the total biweekly pays will include those pay periods in the third quarter of each year in which the member does not receive salary. The adjustment as specified in (c) above shall not be made.

(e) If a member was reported on a biweekly basis on any combination of 10 and 12-month contract years in such one or three-year period, the final average compensation or last year's salary period to death or retirement shall be determined on a proportional basis.

(f) The biweekly pay periods for which no contributions were made shall be counted as zero.

R.1974 d.62, effective March 12, 1974.
See: 6 N.J.R. 84(a), 6 N.J.R. 158(b).
As amended, R.1978 d.96, effective March 14, 1978.
See: 10 N.J.R. 37(b), 10 N.J.R. 175(b).

17:1-4.20 Disability applications; priorities

(a) When disability cases are returned from the Medical Review Board to the Disability Review Section, the Disability Review Section will prepare sufficient copies and forward to the secretaries of the respective retirement systems those cases that are ready for presentation to the board or commission, as the Medical Review Board has made a specific recommendation that can be acted upon by the board or commission.

(b) The priority in forwarding the cases to the secretaries of the respective retirement systems shall be in the order of the boards regular meeting schedule.

(c) If the Medical Review Board has not given a specific medical recommendation upon which the board or commission may act, the case will not be forwarded to the secretary of the retirement system, but the Disability Review Section will proceed in accordance with the advice of the Medical Review Board to obtain additional information needed by the board to render a medical recommendation.

17:1-4.21 Disability retirants; reexaminations

A person receiving a disability retirement allowance and who has not attained the normal retirement age, will not be subject to the periodic medical reexamination, if he reaches the normal retirement age in the year in which the examination is to be performed, provided he has had at least one reexamination.

As amended, R.1980 d.63, effective February 5, 1980.
See: 12 N.J.R. 52(d), 12 N.J.R. 163(a).

17:1-4.22 Disability retirants; availability of medical records

The division will release a copy of the examining physician's medical report to the member, his attorney or any person authorized by the member in writing to receive a copy of such report. In no event will the report be released to any individual not authorized in writing to receive the report.

As amended, R.1981 d.86, effective March 6, 1981.
See: 13 N.J.R. 110(a), 13 N.J.R. 247(d).

Old text concerning medical records and availability deleted, new text concerning disability retirants substituted therefor.

17:1-4.23 Survivor certifications

Widows, widowers, parents and guardians of minor children receiving pension checks may be contacted annually by letter or certificate of eligibility to determine eligibility for the continuation of monthly benefits.

As amended, R.1971 d.16, effective February 1, 1971.
See: 3 N.J.R. 11(b), 3 N.J.R. 52(a).
As amended, R.1979 d.169, effective May 1, 1979.
See: 11 N.J.R. 209(b), 11 N.J.R. 304(d).

17:1-4.24 Due date; retired health benefits coverage

(a) An employee, upon retirement, or an eligible survivor of such employee, will be notified by certified mail of his right to continue coverage in the State Health Benefits Program.

(b) The retired employee or eligible survivor must, within a 15-day period following the receipt of the letter offering retired coverage, submit the appropriate application and premiums for such coverage.

17:1-4.25 (Reserved)

Recodified to N.J.A.C. 17:1-6.2 by R.2001 d.388, effective November 5, 2001.
See: 33 N.J.R. 1872(a), 33 N.J.R. 3754(a).
Section was "Indictments, litigation or appeals".

17:1-4.26 Medical examinations; out-of-State

(a) The retirement system may arrange medical examinations for members who live out-of-State with physicians located in the vicinity of the member's place of residence.

(b) In the event the Board or Commission contemplates the denial of a disability claim based on an out-of-State physician's medical report, the employee will be required to be examined by a New Jersey physician who is a member of the Board of Medical Examiners for the Division of Pensions.

(c) The New Jersey medical examiner's report and all related data will be reviewed by the Board or Commission to determine whether the member's application for disability benefits will be approved.

R.1974 d.62, effective March 12, 1974.
See: 6 N.J.R. 84(a), 6 N.J.R. 158(b).

17:1-4.27 Final compensation; salaries to be used for a period of purchased service

(a) If a period of purchased New Jersey service may be included in the period for the calculation of final compensation, actual base salaries paid during such period will be certified and used in the computation.

(b) The period of a purchased leave of absence will not be included in the calculation of final compensation.

R.1974 d.62, effective March 12, 1974.
See: 6 N.J.R. 84(a), 6 N.J.R. 158(b).

17:1-4.28 Post-retirement employment; employer certification

(a) Employers shall certify on the certification of service and final salary form that the retiring employee has terminated all service.

(b) Also, within the three-month period following the employee's effective date of retirement, a certification will be sent to the employer, with a copy to the employee, in order for him to affirm that the employee has indeed terminated as of the effective retirement date and that no services are being rendered by the retirant as an employee in any other capacity.

Obligation to exclude salary adjustments from compensation is not limited to salary increases granted in the year immediately preceding retirement. *DiMaria v. Board of Trustees of Public Employees' Retirement System*, 225 N.J.Super. 341, 542 A.2d 498 (A.D.1988) certification denied 113 N.J. 638, 552 A.2d 164.

ALJ was not precluded from considering whether increase in member's salary more than one year preceding retirement was granted primarily in anticipation of retirement. *DiMaria v. Board of Trustees of Public Employees' Retirement System*, 225 N.J.Super. 341, 542 A.2d 498 (A.D.1988) certification denied 113 N.J. 638, 552 A.2d 164.

Increase in salary from \$18,000 to \$55,000 was granted primarily in anticipation of retirement. *DiMaria v. Board of Trustees of Public Employees' Retirement System*, 225 N.J.Super. 341, 542 A.2d 498 (A.D.1988) certification denied 113 N.J. 638, 552 A.2d 164.

Teacher's lump sum death benefit based on final year of creditable service, not highest paid year. *Bush v. Teachers' Pension and Annuity Fund*. 92 N.J.A.R.2d (TYP) 157.

Application for veteran retirement benefits invalid as result of continued employment as municipal attorney, despite change in method of compensation. *Mastro v. Board of Trustees, Public Employees' Retirement System*, 92 N.J.A.R.2d (TYP) 123.

Salary paid township counsel during three years before retirement was paid primarily in anticipation of retirement, and thus ineligible compensation for pension purposes. *Mangini v. Trustees of Public Employees' Retirement System*, 92 N.J.A.R.2d (TYP) 43.

17:1-4.19 Biweekly salary computation; retirement and death benefits (final compensation or last year's salary)

(a) In computing the salary upon which pension contributions were based during a member's last year of service, in the case of a 12-month State employee reported on a biweekly basis, a total of 26 biweekly pays will be used, including any retroactive salary payments made within the prescribed period.

(b) In computing final compensation upon which pension contributions were based, in the case of a 12-month State employee reported on a biweekly basis, a total of 78 biweekly pays will be used, including any retroactive salary payments made within the prescribed period.

(c) In order to compute (a) and (b) above for biweekly State employees who are paid by centralized payroll, the actuary will supply factors to convert biweekly salaries to compensate for State biweekly payroll schedules. Application of the factors to the salaries reported for pension purposes will develop the wage base for the calculation of benefits.

(d) In computing (a) and (b) in the case of State employees reported on a 10-month basis, the total biweekly pays will include those pay periods in the third quarter of each year in which the member does not receive salary. The adjustment as specified in (c) above shall not be made.

(e) If a member was reported on a biweekly basis on any combination of 10 and 12-month contract years in such one or three-year period, the final average compensation or last year's salary period to death or retirement shall be determined on a proportional basis.

(f) The biweekly pay periods for which no contributions were made shall be counted as zero.

R.1974 d.62, effective March 12, 1974.

See: 6 N.J.R. 84(a), 6 N.J.R. 158(b).

As amended, R.1978 d.96, effective March 14, 1978.

See: 10 N.J.R. 37(b), 10 N.J.R. 175(b).

17:1-4.20 Disability applications; priorities

(a) When disability cases are returned from the Medical Review Board to the Disability Review Section, the Disability Review Section will prepare sufficient copies and forward to the secretaries of the respective retirement systems those cases that are ready for presentation to the board or commission, as the Medical Review Board has made a specific recommendation that can be acted upon by the board or commission.

(b) The priority in forwarding the cases to the secretaries of the respective retirement systems shall be in the order of the boards regular meeting schedule.

(c) If the Medical Review Board has not given a specific medical recommendation upon which the board or commission may act, the case will not be forwarded to the secretary of the retirement system, but the Disability Review Section will proceed in accordance with the advice of the Medical Review Board to obtain additional information needed by the board to render a medical recommendation.

17:1-4.21 Disability retirants; reexaminations

A person receiving a disability retirement allowance and who has not attained the normal retirement age, will not be subject to the periodic medical reexamination, if he reaches the normal retirement age in the year in which the examination is to be performed, provided he has had at least one reexamination.

As amended, R.1980 d.63, effective February 5, 1980.

See: 12 N.J.R. 52(d), 12 N.J.R. 163(a).

17:1-4.22 Disability retirants; availability of medical records

The division will release a copy of the examining physician's medical report to the member, his attorney or any person authorized by the member in writing to receive a copy of such report. In no event will the report be released to any individual not authorized in writing to receive the report.

As amended, R.1981 d.86, effective March 6, 1981.

See: 13 N.J.R. 110(a), 13 N.J.R. 247(d).

Old text concerning medical records and availability deleted, new text concerning disability retirants substituted therefor.

17:1-4.23 Survivor certifications

Widows, widowers, parents and guardians of minor children receiving pension checks may be contacted annually by

letter or certificate of eligibility to determine eligibility for the continuation of monthly benefits.

As amended, R.1971 d.16, effective February 1, 1971.

See: 3 N.J.R. 11(b), 3 N.J.R. 52(a).

As amended, R.1979 d.169, effective May 1, 1979.

See: 11 N.J.R. 209(b), 11 N.J.R. 304(d).

17:1-4.24 Due date; retired health benefits coverage

(a) An employee, upon retirement, or an eligible survivor of such employee, will be notified by certified mail of his right to continue coverage in the State Health Benefits Program.

(b) The retired employee or eligible survivor must, within a 15-day period following the receipt of the letter offering retired coverage, submit the appropriate application and premiums for such coverage.

17:1-4.25 Indictments, litigation or appeals

(a) When a member is indicted and has been accused of a crime involving moral turpitude, the matter shall be referred to the Attorney General's office to determine the status of any claim which may be filed by the member.

(b) No credit shall be granted for the period during which the member's salary has been terminated while under indictment or suspension, until the outcome of the proceedings determines the basis for the award of such credit, if any.

(c) All claims for retirement, death benefits and the return of contributions cannot be processed until the matter has been completely resolved and this has been verified by contact with the Attorney General's office, the Department of Education, the Civil Service Commission or other responsible agencies.

(d) Likewise in cases where anything pertaining to a member's employment is in litigation, or under appeal, the matter should be referred to the Attorney General's office to determine if claims can be processed or whether the processing of such claims are to be postponed pending a final resolution of the litigation or appeal.

As amended, R.1982 d.491, effective January 17, 1983.

See: 14 N.J.R. 1290(a), 15 N.J.R. 95(b).

Spelling correction and "agents" changed to "agencies".

Case Notes

Pension may be reduced due to retiree's admission of participation in kickback scheme during public service. *Estate of Verderese v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 11.

Conviction on plea of guilty to job-related criminal charges required total forfeiture of retirement benefits. *Gallerano v. Retirement System*, 93 N.J.A.R.2d (TYP) 299.

Three years of bribe taking warrants forfeiture of 28 years of service credit. *Sudia v. Board of Trustees of the Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 118.

Conviction of receiving bribes and of income tax evasion warrants forfeiture of pension benefits accumulated during such employment; however, employee could withdraw contributions plus interest. *Tomaso v. Board of Trustees of the Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 48.

Extortion conviction warranted denial of 12 years and 8 months of retirement service credit. *Fisher v. Public Employees' Retirement System*, 92 N.J.A.R.2d (TYP) 114.

School psychologist's service not honorable after his criminal sexual contact conviction, and therefore not creditable for calculating pension benefits. *LePrince v. Board of Trustees, Teachers' Pension and Annuity Fund*, 92 N.J.A.R.2d (TYP) 59, affirmed and remanded 267 N.J.Super. 270, 631 A.2d 545, certification denied 134 N.J. 482, 634 A.2d 528, certiorari denied 114 S.Ct. 1072, 510 U.S. 1119, 127 L.Ed.2d 390.

17:1-4.26 Medical examinations; out-of-State

(a) The retirement system may arrange medical examinations for members who live out-of-State with physicians located in the vicinity of the member's place of residence.

(b) In the event the Board or Commission contemplates the denial of a disability claim based on an out-of-State physician's medical report, the employee will be required to be examined by a New Jersey physician who is a member of the Board of Medical Examiners for the Division of Pensions.

(c) The New Jersey medical examiner's report and all related data will be reviewed by the Board or Commission to determine whether the member's application for disability benefits will be approved.

R.1974 d.62, effective March 12, 1974.

See: 6 N.J.R. 84(a), 6 N.J.R. 158(b).

17:1-4.27 Final compensation; salaries to be used for a period of purchased service

(a) If a period of purchased New Jersey service may be included in the period for the calculation of final compensation, actual base salaries paid during such period will be certified and used in the computation.

(b) The period of a purchased leave of absence will not be included in the calculation of final compensation.

R.1974 d.62, effective March 12, 1974.

See: 6 N.J.R. 84(a), 6 N.J.R. 158(b).

17:1-4.28 Post-retirement employment; employer certification

(a) Employers shall certify on the certification of service and final salary form that the retiring employee has terminated all service.

(b) Also, within the three-month period following the employee's effective date of retirement, a certification will be sent to the employer, with a copy to the employee, in order for him to affirm that the employee has indeed terminated as of the effective retirement date and that no services are being rendered by the retirant as an employee in any other capacity.

R.1975 d.235, effective August 1, 1975.
See: 7 N.J.R. 346(b), 7 N.J.R. 446(a).

17:1-4.29 Employer resolution; involuntary disability application

(a) Applications for the involuntary disability retirement of an employee of a local employer must be accompanied by a resolution of the governing body, or in the case of a State employee, by a letter from the State department head, certifying that the employee is disabled and unable to perform his regular or assigned duties.

(b) The resolution or letter and retirement application must be accompanied by supporting medical reports.

R.1975 d.235, effective August 1, 1975.
See: 7 N.J.R. 346(b), 7 N.J.R. 446(a).
Petition for Rulemaking.
See: 30 N.J.R. 2308(b), 30 N.J.R. 2959(a).

17:1-4.30 Optional settlements; group life insurance

As the statutes provide that death benefits under the group life insurance contracts may be paid under any optional settlement made available by the insurance company, the beneficiary will be informed of such opportunity in the correspondence when such optional settlements are possible. If the beneficiary requests advice concerning such settlements, the claim shall be forwarded to the carrier for contact with the beneficiary. The Division will be advised of the final settlement for the recording of the data with the retirement system.

R.1977 d.416, effective November 1, 1977.
See: 9 N.J.R. 493(e), 9 N.J.R. 601(a).

17:1-4.31 Normal retirement age

(a) The normal retirement age for the respective systems are as follows:

1. As per N.J.S.A. 43:15A-47, age 60 in the Public Employees' Retirement System;
2. As per N.J.S.A. 18A:66-43, age 60 in the Teachers' Pension and Annuity Fund;
3. As per N.J.S.A. 43:16A-5, age 55 in the Police and Firemen's Retirement System;
4. As per N.J.S.A. 53:5A-8, age 55 in the State Police Retirement System;
5. As per N.J.S.A. 43:6A-9.2, age 60 in the Judicial Retirement System.

R.1980 d.64, effective February 5, 1980.
See: 12 N.J.R. 55(a), 12 N.J.R. 163(b).

17:1-4.32 Workers' compensation; reduction of retirement allowance

(a) A member who retires on an accidental disability retirement under the provisions of the applicable statutes governing the various State-administered retirement systems

and who receives periodic benefits under the workers' compensation law after the date of retirement shall be subject to a reduction in the pension portion of his or her retirement allowance in the amount of the periodic benefits received after the date of retirement.

1. The reduction shall be a dollar-for-dollar reduction in the pension portion of the retirement allowance in the amount of the periodic benefits for the time period for which the periodic benefits are received.

2. If an accidental disability retiree receives a retirement allowance without reduction and periodic benefits under the workers' compensation law for any time period after the date of retirement, the retiree shall repay to the retirement system the amount of the pension portion of his or her retirement allowance which should have been subject to reduction under the applicable statute and this rule. The repayment may be in the form of a lump sum payment or scheduled as deductions from the retiree's retirement allowances and pension adjustment benefits, except that, if the retiree does not respond by remitting payment in a lump sum within 60 days, the Division shall establish a repayment schedule. In the event of the death of the retiree before full repayment of the amount required under this rule, the remaining balance shall be deducted from any death benefits payable on behalf of the retiree.

3. The reduction under this rule shall not affect the retiree's pension adjustment benefits or survivor benefits that may be payable upon the death of the retiree.

(b) Any retiree or beneficiary receiving pension adjustment benefits based upon a retirement allowance reduced due to receipt of periodic workers' compensation benefits shall be entitled to receive pension adjustment benefits based upon the full retirement allowance.

R.1981 d.85, effective March 6, 1981.
See: 13 N.J.R. 109(a), 13 N.J.R. 247(c).
Repeal and New Rule, R.1994 d.424, effective August 15, 1994.
See: 26 N.J.R. 2201(a), 26 N.J.R. 3461(a).

17:1-4.33 Leaves of absence for maternity; benefits; nondiscrimination

In accordance with the Attorney General's opinion AAA M79-4158, rendered in January, 1981, public employees, who are on authorized leaves of absence for maternity, will not be treated any differently from other public employees, who are on authorized leaves of absence for personal illness, concerning their rights, duties and obligations regarding their pension or other related employee benefit programs.

R.1981 d.428, eff. November 2, 1981.
See: 13 N.J.R. 617(b), 13 N.J.R. 779(e).
New Rule.

17:1-4.34 Credit for partial month service

(a) For retirement purposes, a full month of service credit will be granted to any member who has rendered 16 days or more of eligible service within a particular month.

(b) In order to purchase a full month of service credit for previous, eligible service, an employee must have been appointed to such position before the 17th day of a particular month and remained in that capacity at the end of that month. (See N.J.A.C. 17:1-4.4 for Enrollment schedules).

R.1982 d.469, effective January 3, 1983.
See: 14 N.J.R. 1201(b), 15 N.J.R. 36(c).

Case Notes

Teacher entitled to additional free veterans' prior service credit for work as substitute teacher and summer recreational instructor. *D'Amato v. Board of Trustees of the Teachers' Pension and Annuity Fund*, 92 N.J.A.R.2d (TYP) 62.

17:1-4.35 Purchases pursuant to Chapter 226, Laws of 1985

In order to be eligible to purchase temporary service credit under the provisions of Chapter 226, Laws of 1985, a member of the Public Employees' Retirement System shall submit a written request to purchase the temporary service credit within one year from the date that his or her initial pension contributions to the Public Employees' Retirement System are certified to begin. Such purchase must be authorized by the member before the expiration date indicated on the purchase quotation letter issued by the Division of Pensions.

New Rule R.1986 d.390, effective October 6, 1986.
See: 18 N.J.R. 1450(b), 18 N.J.R. 2059(a).

17:1-4.36 Peacetime military service; service credit

(a) A member or former member, or a person required to be a member, of a State-administered retirement system who leaves employment covered by a State-administered retirement system to enter the uniformed services of the United States and returns to covered employment within the time period and under the circumstances required for entitlement to reemployment rights under Federal law (38 U.S.C. §§ 4301 et seq.), may obtain service credit in the State-administered retirement system as provided in this section.

(b) A member reemployed under this section shall be treated as not having incurred a break in service with the employer by reason of the member's period of service in the uniformed services for the purposes of vesting or determining eligibility for retirement and health benefits, even if the member does not make contributions to the retirement system for the period of service.

(c) The types of service or situations eligible for reemployment rights include regular active duty, initial active duty for training, active and inactive duty training for members of reserve components and National Guard units, and situations where an employee leaves employment for the uniformed services or for examination of fitness for the uniformed services and is not taken into the uniformed services.

1. The person must be a member or be required to be a member of a State-administered retirement system prior to leaving employment to enter the uniformed services, must give advance written or oral notice of such service to the employer, unless precluded by military necessity, and must leave the covered employment to enter the uniformed services.

2. The person must return to employment or submit an application for reemployment covered by a State-administered retirement system within the time periods prescribed by Federal law. The cumulative length of the absence and of all previous absences with that employer shall not exceed five years unless otherwise permitted under 38 U.S.C. § 4312(c) to be eligible for reemployment rights. The person must seek reemployment within the time period prescribed by Federal law which is generally 90 days following release from the uniformed services but which differs based on the length and type of service as provided in 38 U.S.C. § 4312(e). In all cases, the time limit for return to employment or to submit an application for reemployment is extended for up to two years for any injury or illness incurred in or aggravated during the uniformed service requiring hospitalization or convalescence which continues after release from the uniformed service.

3. The person's uniformed service must have been honorable or satisfactory.

4. The person shall be denied reemployment rights if:

i. The person is not qualified to perform the duties of the position for which reemployment is sought;

ii. The accommodation, training or effort referred to in 38 U.S.C. § 4313(a)(3), (a)(4) or (b)(2)(B) would impose an undue hardship on the employer;

iii. The employer's circumstances have so changed as to make it impossible or unreasonable to reemploy the person;

iv. The employment from which the person leaves to serve in the uniformed services is for a brief, nonre-current period (temporary employment) and there is no reasonable expectation that such employment will continue indefinitely; or

v. The person knowingly provides written notice of intent not to return to a position of employment after service in the uniformed services.

5. The person will not be entitled to service credit in a State-administered retirement system if reemployment is validly denied.

6. The employer shall have the burden of proving that (c)4i, ii, iii, iv or v above justified the denial of reemployment rights. For the purposes of (c)4v above, the employer must show that the person knowingly provided clear written notice of intent not to return to a position of employment after service in the uniformed service and in doing so was aware of the specific rights and benefits to be lost.

7. To receive service credit in a State-administered retirement system for peacetime military service, prior to October 13, 1994, the person must have applied within one year following the date of return to employment or the date initial pension contributions are certified to begin in the retirement system if the person's former membership was terminated or was in a different retirement system.

8. The employer shall notify the Division in writing within 30 days that a member has returned from service in the uniformed services and the dates of such service.

9. The member may make contributions to the retirement system for all of the period of service in the uniformed services to obtain credit in the pension system for inclusion of such service in the calculation of benefits. The member must file a written request with the Division so that a schedule of back deductions will be generated. The schedule of back deductions shall be based upon the employee's rate of contribution in effect on the date the employee returned to employment multiplied by the salary the employee would have received but for the period of service; or, if the determination of such salary is not reasonably certain, on the basis of the employee's average rate of compensation during the 10 or 12-month period immediately preceding such service for the period of time in which no credit was received in the system for that service. Any payment to the plan described in this paragraph shall begin as soon as practicable after the date of reemployment and shall continue for the lesser of five years or three times the period of the uniformed service. If the member does not request in writing back deductions at the time of return to employment, the member may request to receive credit for such service until the expiration of either five years or three times the period of the uniformed service, whichever is shorter. Repayment still must be made in the above referenced time frame.

10. The member is permitted to make additional elective deferrals to the Supplemental Annuity Collective Trust (SACT), the New Jersey Employees Deferred Compensation Plan, Additional Contributions Tax Sheltered Programs (ACTS) and the Alternate Benefit Program in an amount not exceeding the maximum amount the employee would have been permitted to contribute during the period of military service if the employee had actually been employed by the employer during that period.

11. If a person retires prior to paying the total amount of contributions required to obtain service credit for the uniformed service, the total amount of service credit shall be in direct proportion as the amount paid bears to the total amount of contribution obligation.

12. An employer who participates in the Alternate Benefit Program (ABP), reemploying a person under this section, with respect to the period served by a person in the uniformed services, upon reemployment of that person, shall be liable to the employee pension plan for funding any obligation of that plan to provide benefits under that plan, and shall allocate the amount of any employer contribution for that person in the same manner and extent that the allocation occurs for other employees during the same period of service. However, the employer is not required to make up the earnings that those contributions would have made had the person reemployed under this rule been employed continuously.

i. An employee reemployed under this paragraph who is a member of the defined contribution plan shall be entitled to the above accrued benefits only to the extent that the person makes payments to the plan with respect to such employee contributions.

ii. For the purposes of computing the employer's liability and the employee's contributions, the employee's compensation during the period of service shall be computed at:

(1) The rate the employee would have received but for the period of service; or

(2) If the determination of such rate is not reasonably certain, on the basis of the employee's average rate of compensation during the 10 or 12-month period immediately preceding such service.

iii. Make-up contributions shall begin on the date of reemployment and shall continue for five years or three times the period of uniformed service, whichever is shorter.

iv. Any employer who reemploys a person under this section shall, within 30 days after the date of reemployment, provide information in writing of such reemployment to the Division of Pensions and Benefits.

New Rule, R.1987 d.198, effective May 4, 1987.

See: 19 N.J.R. 353(b), 19 N.J.R. 772(b).

Amended by R.2000 d.113, effective March 20, 2000.

See: 32 N.J.R. 170(a), 32 N.J.R. 1045(a).

In (a), substituted "the uniformed" for "military" following "to enter"; substituted "4301" for "2021" following "38 U.S.C."; and deleted "covering the employment after military service" following "retirement system"; inserted a new (b); and rewrote (c).

17:1-4.37 Ordinary disability applications; medical examinations

(a) Applicants for ordinary disability retirement shall submit with their applications all the medical information they can supply relative to their disability, including reports of

their personal physicians and consulting physicians, hospital records, diagnostic test results, and any other medical information which would assist the Medical Review Board and the board or commission of the retirement system in determining eligibility of the applicants for disability retirement. The Disability Review Section shall forward the applications and the accompanying medical information to the Medical Review Board.

(b) If the medical information supplied by the applicant is sufficient for the Medical Review Board to make a medical recommendation, it shall return the case to the Disability Review Section with its recommendation. If the Medical Review Board deems that the medical information supplied by the applicant is not sufficient for it to make a medical recommendation, it shall advise the Disability Review Section to arrange to have the applicant examined by a physician or physicians under contract with the Division of Pensions to perform disability examinations, or to obtain additional information needed to make its medical recommendation.

(c) The board or commission which governs the pension fund or retirement system may request that an applicant be examined or reexamined by a physician or physicians under contract with the Division of Pensions, or that additional information be obtained, if it deems that the medical information available is insufficient to make a decision on the eligibility of the applicant for ordinary disability retirement.

New Rule, R.1988 d.231, effective June 6, 1988.
See: 20 N.J.R. 231(a), 20 N.J.R. 1286(b).

17:1-4.38 Compensation limit for exclusion from membership after retirement

Beginning with the calendar year 1999, and for any calendar year thereafter, the Director of the Division of Pensions and Benefits may adjust the compensation limit for exclusion from membership after retirement. The compensation limit shall be adjusted by increments of \$1,000, when \$10,000 increased by $\frac{1}{2}$ times the change in the Consumer Price Index as defined in N.J.S.A. 43:3B-1f from the Index applicable to calendar year 1997 to the Index applicable to the calendar year immediately preceding the year of adjustment, rounded to the next highest 100 dollars, exceeds the previous compensation limit by \$1,000.

New Rule, R.1998 d.242, effective May 18, 1998.
See: 30 N.J.R. 1024(a), 30 N.J.R. 1847(c).

17:1-4.39 Workers' compensation: employer's obligation regarding employee contributions

(a) An employer is responsible for the payment of an employee's pension contributions while the employee is receiving periodic disability benefits through workers' compensation.

(b) An employer is not responsible for the payment of an employee's pension contributions while the employee is receiving a periodic award of disability benefits through workers' compensation without pay if a valid termination from employment has occurred. If an employer ceases payment of employee pension contributions due to a valid termination, as listed in (b)3 or 4 below, the employer shall notify the Division of Pensions and Benefits in writing of the reasons for the cessation of payments. A valid termination exists when:

1. The employee voluntarily files for a retirement allowance that is subsequently approved;
2. The employer files an involuntary disability retirement application for the employee that is subsequently approved;
3. The employee voluntarily resigns from employment;
or
4. The employee is terminated by the employer for reasons unrelated to a workers' compensation award.

New Rule, R.1999 d.109, effective April 5, 1999.
See: 31 N.J.R. 265(a), 31 N.J.R. 892(b).
Amended by R.2001 d.163, effective May 21, 2001.
See: 33 N.J.R. 995(a), 33 N.J.R. 1605(a).
Rewrote the section.

Case Notes

New rule reflects an expression of the Division of Pensions and Benefits' current interpretation of statute, as well as its policy to be applied across the board to employee pensions. *James v. Board of Trustees, Public Employees Retirement System*, 323 N.J.Super. 100, 732 Ad.2d 517 (N.J.Super.A.D. 1999).

SUBCHAPTER 5. HEARINGS

17:1-5.1 Hearing request

(a) The division, board or commission shall cause to be given to the applicant written notice of its decision. Said notice shall inform the applicant of his or her right to request a hearing in the event the applicant disagrees with the decision of the agency and the manner in which such request must be made.

(b) The decision by the agency shall be final unless the applicant shall file a request for a hearing within 45 days after the date of the written notice of the decision.

(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.

As amended, R.1982 d.491, effective January 17, 1983.
See: 14 N.J.R. 1290(a), 15 N.J.R. 95(b).
Hearings conducted by Office of Administrative Law.

Case Notes

Policeman was not entitled to reopen denied application for accidental disability retirement benefits. *Obsuth v. Board of Trustees of the Police and Firemen's Retirement System*, 93 N.J.A.R.2d (TYP) 175.

17:1-5.2 through 17:1-5.6 (Reserved)

R.1982 d.491, effective January 17, 1983.

See: 14 N.J.R. 1290(a), 15 N.J.R. 95(b).

Deleted sections.

SUBCHAPTER 6. HONORABLE SERVICE**Authority**

52:18A-96 et seq.

Source and Effective Date

R.2001 d.388, effective November 5, 2001.

See: 33 N.J.R. 1872(a), 33 N.J.R. 3754(a).

17:1-6.1 Honorable service

(a) The receipt of a public pension or retirement benefit is expressly conditioned upon the rendering of honorable service by a public officer or employee. Pursuant to N.J.S.A. 43:1-3, the Boards of Trustees of the State-administered retirement systems are authorized to order the forfeiture of all or part of the pension or retirement benefit of a member of the fund or system for misconduct occurring during the member's public service which render the member's service or part thereof, dishonorable.

(b) Whenever the Board of Trustees determines that a partial forfeiture of pension or retirement benefits is warranted, it shall order that benefits be calculated as if the accrual of pension rights terminated as of the date the misconduct first occurred unless (c) below applies.

(c) In the limited circumstances where the termination of pension rights as of the date of the misconduct results in no reduction, or a minimal reduction of pension or retirement benefits, or in an excessive forfeiture, as compared to the nature and extent of the misconduct and the years of honorable service, the Board may, in its sole discretion, provide a more equitable relief. Alternate methods available to the Board when a forfeiture of service renders an unreasonable or unjust result include, but are not limited to:

1. Forfeiture of salary credit upon which retirement benefits are based;
2. Forfeiture of system-paid retired State Health Benefits;
3. Forfeiture of right to participate in the retired State Health Benefits Program;
4. Reduction in monthly retirement allowance;
5. Forfeiture of service and/or salary credit in a specific title or rank;

6. Forfeiture of service in excess of that needed to qualify for a specific retirement benefit; or

7. Forfeiture of a percentage of the retirement benefit based on the calculation of the percentage of time which was dishonorable service as compared to the total years and months of service credit.

New Rule, R.2001 d.388, effective November 5, 2001.

See: 33 N.J.R. 1872(a), 33 N.J.R. 3754(a).

17:1-6.2 Indictments, dismissals, litigation or appeals

(a) When a member is indicted or dismissed, the matter shall be referred to the Board Secretary's office to determine the status of any claim which may be filed by the member.

(b) No credit shall be granted for the period during which the member's salary has been terminated while under indictment or suspension, until the outcome of the proceedings determines the basis for the award of such credit, if any.

(c) All claims for retirement, death benefits and the return of contributions cannot be processed until the matter has been completely resolved to the satisfaction of the Board of Trustees. Resolution of the indictment, dismissal or other charges must be verified by contact with the County Prosecutor's Office, the Attorney General's Office, the Department of Education, the Department of Personnel or other responsible agencies.

(d) Likewise in cases where anything pertaining to a member's employment is in litigation, or under appeal, the matter shall be held in abeyance until the Division determines if claims can be processed or whether the processing of such claims are to be postponed pending a final resolution of the litigation or appeal.

(e) If an indictment regarding charges related to a member's public employment is received by the Boards or Division after the member's date of retirement, the Boards may suspend retirement benefits pending the outcome of the indictment.

As amended, R.1982 d.491, effective January 17, 1983.

See: 14 N.J.R. 1290(a), 15 N.J.R. 95(b).

Spelling correction and "agents" changed to "agencies".

Recodified from N.J.A.C. 17:1-4.25 and amended by R.2001 d.388, effective November 5, 2001.

See: 33 N.J.R. 1872(a), 33 N.J.R. 3754(a).

Rewrote (a) and (c); in (d), substituted "shall be held in abeyance until the Division determines" for "should be referred to the Attorney General's office to determine"; added (e).

Case Notes

Pension may be reduced due to retiree's admission of participation in kickback scheme during public service. *Estate of Verderese v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 11.

Conviction on plea of guilty to job-related criminal charges required total forfeiture of retirement benefits. *Gallerano v. Retirement System*, 93 N.J.A.R.2d (TYP) 299.

Three years of bribe taking warrants forfeiture of 28 years of service credit. *Sudia v. Board of Trustees of the Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 118.

Conviction of receiving bribes and of income tax evasion warrants forfeiture of pension benefits accumulated during such employment; however, employee could withdraw contributions plus interest. *Tomaso v. Board of Trustees of the Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 48.

Extortion conviction warranted denial of 12 years and 8 months of retirement service credit. *Fisher v. Public Employees' Retirement System*, 92 N.J.A.R.2d (TYP) 114.

School psychologist's service not honorable after his criminal sexual contact conviction, and therefore not creditable for calculating pension benefits. *LePrince v. Board of Trustees, Teachers' Pension and Annuity Fund*, 92 N.J.A.R.2d (TYP) 59, affirmed and remanded 267 N.J.Super. 270, 631 A.2d 545, certification denied 134 N.J. 482, 634 A.2d 528, certiorari denied 114 S.Ct. 1072, 510 U.S. 1119, 127 L.Ed.2d 390.

SUBCHAPTER 7. PENSION ADJUSTMENT PROGRAM

17:1-7.1 Employer payments; multiple enrollees

The liability of the several employers in the case of multiple enrollees (a pensioner receiving benefits from a retirement system on the basis of several positions covered by the same system) will be prorated on the basis of the final salaries reported to the system prior to retirement.

As amended, R.1969 d.34, effective December 19, 1969.
See: 1 N.J.R. 10(a), 2 N.J.R. 7(a).

17:1-7.2 Employer payments; delinquencies

(a) The division will inform all retirants and beneficiaries of the reason for the suspension of payments.

(b) Retroactive adjustments will be made once the employer's appropriation has been paid.

As amended, R.1976 d.212, effective July 2, 1976.
See: 8 N.J.R. 312(d), 8 N.J.R. 407(b).

17:1-7.3 Administration fees; investment earnings

(a) The certification by the Director of the Division of Pensions of the amounts payable by local employers shall include an administrative fee to reimburse the State for the cost of administering the Pension Adjustment Program on behalf of their employees. The fee shall be \$1.00 per pensioner or beneficiary.

(b) Administrative fees, assessable to local employers participating in the Pension Adjustment Program, will be recovered from investment earnings on contributions as long as such earnings exceed the fees assessable. Employers will be billed for the difference whenever the investment earnings are less than the administrative fees assessed.

(c) Excess earnings, remaining after the recovery of the assessment of the administrative fees, shall be transferred to the State of New Jersey—General Fund.

As amended, R.1971 d.16, effective February 1, 1971.

See: 3 N.J.R. 11(b), 3 N.J.R. 52(a).
As amended, R.1978 d.421, effective December 12, 1978.
See: 10 N.J.R. 516(a), 11 N.J.R. 52(a).
As amended, R.1981 d.291, effective August 6, 1981.
See: 13 N.J.R. 374(e), 13 N.J.R. 525(a).

Rule concerning administration fees and investment earnings replaces "Reserved" section.

17:1-7.4 Return to public employment; pension adjustments

(a) When a retiree returns to public employment to a position covered by the same retirement system from which he or she retired and subsequently retires from the post-retirement employment, each retirement will be treated separately for pension adjustment purposes.

(b) The benefit year for each retirement will be the initial year in which the retirement is effective and the member shall satisfy the 24 month waiting period for each retirement before the pension adjustment benefits may be received for that retirement.

(c) If a member was receiving pension adjustment benefits at the time that the initial retirement was cancelled due to the post-retirement employment, he or she shall begin to receive pension adjustment benefits based upon the initial retirement immediately upon the reinstatement of the initial retirement.

As amended, R.1971 d.16, effective February 1, 1971.
See: 3 N.J.R. 11(b), 3 N.J.R. 52(a).
New Rule, R.1987 d.128, effective March 16, 1987.
See: 19 N.J.R. 51(b), 19 N.J.R. 456(b).

17:1-7.5 (Reserved)

As amended, R.1971 d.16, effective February 1, 1971.
See: 3 N.J.R. 11(b), 3 N.J.R. 52(a).

17:1-7.6 Waiver

(a) Application for waiver in whole or part by a retirant or beneficiary who is eligible to receive the increased allowance shall be made at least 30 days prior to the desired effective date on a form prescribed by the Division of Pensions and shall be effective on the first day of a subsequent month.

(b) A waived benefit may be reinstated by application to the Division of Pensions at least 30 days prior to the reinstatement date and shall be effective on the first of a subsequent month.

As amended, R.1969 d.34, effective December 19, 1969.
See: 1 N.J.R. 10(a), 2 N.J.R. 7(a).

17:1-7.7 Accrued increase; limitations

Upon the death of a retirant or a beneficiary receiving a pension, any payments which were due to the deceased shall be paid to a named beneficiary as established in the records of the State-administered retirement system, or if none is named, to the deceased's estate.

As amended, R.1969 d.34, effective December 19, 1969.
See: 1 N.J.R. 10(a), 2 N.J.R. 7(a).

17:1-7.8 Employer payments

The employers shall review the detailed tabulations of retirants and beneficiaries provided with the invoice for employer liability submitted by the Division of Pensions and shall report any corrections or revisions within 60 days of receipt of the invoice, otherwise invoices must be paid as submitted.

SUBCHAPTER 8. SOCIAL SECURITY

17:1-8.1 (Reserved)

Repealed by R.1981 d.1, effective January 2, 1981.
See: 12 N.J.R. 727(c), 13 N.J.R. 111(c).
Section was "Director's responsibility".

17:1-8.2 Records

(a) The records of the State Agency for Social Security are public records and may be inspected during regular business hours at the office of Chief of the Bureau of Contribution Accounting under the supervision of the chief or other representative of the office.

(b) Records are considered confidential where no official purpose or reason for inspection is indicated.

17:1-8.3 Social Security referendum

(a) As the provisions of P.L. 1956, c.169, contemplate the termination of an entire pension fund and the transfer of its assets, liabilities and membership to the Public Employees' Retirement System upon a successful referendum on the issue of Social Security coverage by a majority vote, when the referendum involves the use of a divided system approach in accordance with the provisions of P.L. 1980, c.86, all of the provisions of P.L. 1956, c.169, shall apply except on a pro rata basis.

(b) Unless the pension fund is terminated in its entirety, the pensions and other benefits granted shall be continued by the pension fund. As the pension fund is not terminated in whole, the actuary shall calculate the liability of each employer only for persons becoming members of the Public Employees' Retirement System, taking into account the pro rata value of assets and liabilities which are transferred to the Public Employees' Retirement System.

(c) As the use of a divided system approach may not result in the termination of the pension fund, the members of the pension fund who are already covered by Social Security and who are not eligible to vote in the referendum shall also be permitted to enroll in the Public Employees' Retirement System on the same optional basis and to the same extent and with the same limitations as those who voted in favor of Social Security coverage.

As amended, R.1978 d.421, effective December 12, 1978.
See: 10 N.J.R. 516(a), 11 N.J.R. 52(a).
R.1980 d.467, effective October 23, 1980.
See: 12 N.J.R. 728(b).

17:1-8.4 Federal-State agreement; modifications

All modifications of the Federal-State agreement are prepared by the Division of Pensions and subject to review by the Attorney General's office.

17:1-8.5 Coverage and wage issues

All coverage issues or questionable wage items are to be submitted to the Division of Pensions for resolution with the Federal Social Security Administration.

17:1-8.6 Benefit and claim issues

All benefit and claim issues are the responsibility of the Federal Social Security Administration.

17:1-8.7 Single check; contributions

With each transmittal the employer will send one check representing employer and/or employee contributions made payable to the "State of New Jersey, Social Security Fund".

As amended, R.1980 d.301, effective July 1, 1980.
See: 12 N.J.R. 351(a), 12 N.J.R. 497(c).

17:1-8.8 Single check; administrative fee

Upon receipt of a billing by the State agency, the employer will send one check representing the pro rata reimbursement of administrative expenses made payable to the "State of New Jersey, Social Security Administrative Account".

As amended, R.1980 d.301, effective July 1, 1980.
See: 12 N.J.R. 351(a), 12 N.J.R. 497(c).

17:1-8.9 Wage reports and transmittals; copies

(a) Participating employers shall forward by the due date one copy of the transmittal, annual wage report and Federal forms as required to the State Agency for Social Security.

(b) Interstate instrumentalities, with the exception of the Palisades Interstate Park Commission, or any agency whose employer tax liability is paid by the State, are required to file an annual wage report with the division.

(c) Copies of such report must be retained by employers for 10 years.

As amended, R.1975 d.235, effective August 1, 1975.
See: 7 N.J.R. 346(b), 7 N.J.R. 446(a).
As amended, R.1983 d.599, effective January 17, 1984.
See: 15 N.J.R. 1741(a), 16 N.J.R. 148(a).
(a) deleted and replaced with simplified instructions.

17:1-8.10 Wage reports; forms

(a) Reports must be made utilizing forms and formats prescribed by the Division of Pensions.

(b) Prior approval for the use of special forms or other media for reporting must be obtained from the Division of Pensions.

As amended, R.1983 d.599, effective January 17, 1984.
See: 15 N.J.R. 1741(a), 16 N.J.R. 148(a).
The word "formats" inserted.

17:1-8.11 Wage reports, transmittals and remittances, and Federal forms; employer responsibility

(a) Each employer is charged with the responsibility of transmitting and remitting contributions for each semi-monthly period. A transmittal without the proper check or a check without the proper transmittal cannot be forwarded to the Federal government and still meet the State's contractual obligation. Where the amount reported on transmittal as being remitted does not agree with accompanying check, neither item can be accepted and both will be returned to the employer. Failure to resubmit correct information and money in a timely manner will result in a delinquency notice.

(b) Illegible or incomplete reports and transmittals or copies of Federal report forms, shall be rejected by the Division of Pensions and returned to participating employers. The employer will bear the expense of any interest penalty levied by the Federal government for such nonreporting or for any other good cause in accordance with Federal regulations. This includes boards of education reporting members of the Teachers' Pension and Annuity Fund.

As amended, R.1975 d.235, effective August 1, 1975.
See: 7 N.J.R. 346(b), 7 N.J.R. 446(a).
As amended, R.1983 d.599, effective January 17, 1984.
See: 15 N.J.R. 1741(a), 16 N.J.R. 148(a).

Information added concerning transmittals and remittances and Federal forms, new material codified at (a); old material codified at (b).

17:1-8.12 Late filing penalties

(a) If proper transmittals and contributions are not received by the State Agency for Social Security by the due

date, such employer will be liable for any penalties assessed by the Federal government.

(b) The participating employer will be sent a delinquency notice covering late or rejected items. Whenever participating employers are delinquent for a period of 90 days in forwarding the appropriate contributions, transmittals and/or reports, the Division of Pensions shall notify the State Treasurer and the Director of Budget and Accounting, who are authorized to deduct any amount due from any monies payable to the employer by a department or agency of the State. In this event, the State Agency will estimate the contributions due by using the information from the last available transmittal. The State Agency will assess interest and report penalty charges for non-compliance of the above in the following manner:

1. Interest charges will be based on the prime rate as of January 1 of each calendar year.

2. Penalty charges for non-filing of reports will be assessed a charge of \$50.00 per day, not to exceed \$1,000 per month.

R.1980 d.301, effective July 1, 1980.

See: 12 N.J.R. 351(a), 12 N.J.R. 497(c).

As amended, R.1982 d.471, effective January 3, 1983.

See: 14 N.J.R. 1202(a), 15 N.J.R. 37(a).

(b) added.

As amended, R.1983 d.132, effective May 2, 1983.

See: 15 N.J.R. 319(b), 15 N.J.R. 696(a).

Complete text repealed and replaced with new rule.

As amended, R.1983 d.599, effective January 17, 1984.

See: 15 N.J.R. 1741(a), 16 N.J.R. 148(a).

(a)-(c) deleted; completely replaced by (a) and (b).

As amended, R.1984 d.558, effective December 17, 1984.

See: 16 N.J.R. 2421(a), 16 N.J.R. 3478(c).

(b) added "The State Agency will . . . exceed \$1,000 per month."

Historical Note

The above new rule replaced prior text concerning wage reports.

17:1-8.13 Social Security coverage; Excluded services

If an employer had previously excluded services which he subsequently wishes to cover, he shall be required to cover all previously excluded services in order to avoid the issue of discrimination against any particular group of eligible employees.

R.1981 d.85, effective March 6, 1981.

See: 13 N.J.R. 109(a), 13 N.J.R. 247(c).

17:1-8.14 Administrative fee

(a) The administrative cost of the program shall be borne by the State and reimbursed annually on a pro rata basis by participating employers.

(b) The cost will be reduced by specific charges of \$10.00 per employer for each delinquent transmittal remittance, annual report or Federal report form.

(c) The participating employer's share of the remaining cost will be apportioned over five ranges based upon the following schedule of employees. Employers will be notified in December of each year of the charge appropriate to each range.

Range	Number of Employees
1	1-10
2	11-25
3	26-50
4	51-100
5	Over 100

(d) There is no administrative fee payable for any School District Unit 002 coverage group or State agency.

R.1981 d.85, effective March 6, 1981.

See: 13 N.J.R. 109(a), 13 N.J.R. 247(c).

As amended, R.1983 d.265, effective July 5, 1983.

See: 15 N.J.R. 687(a), 15 N.J.R. 1104(a).

"Employee" replaced by "employer" in subsection (b).

As amended, R.1983 d.599, effective January 17, 1984.

See: 15 N.J.R. 1741(a), 16 N.J.R. 148(a).

. . . "Annual report or Federal report form.", added at (b).

SUBCHAPTER 9. UNEMPLOYMENT INSURANCE

17:1-9.1 Due dates for contributions and reports

State employing subgroups participating in the Unemployment Insurance Program whose employees are not paid by the State Centralized Payroll Unit shall file the required data and reports of unemployment insurance contributions with the Division of Pensions by the 15th day following the end of each calendar quarter, together with the remittance for the deductions taken from their eligible employees' salaries or wages. State Centralized Payroll will remit weekly an Unemployment Tax Register report which summarizes the Unemployment Compensation information for covered employees in each of the biweekly payroll units. The register is due within five days of the date the payroll is prepared.

17:1-9.2 Employer responsibility; benefit claims

State payroll units and subgroups shall respond with respect to benefit claims from the Division of Unemployment and Disability Insurance as well as the contractor designated by the State to handle unemployment claims and related activities.

17:1-9.3 Employer verification of claim payments

The designated contractor auditing the program will send the chief personnel or administrative officers a monthly report identifying employees who have filed claims and are in receipt of benefits. The reports must be reviewed by the employing unit to determine if they are correct and any discrepancies must be brought to the attention of the contractor.

17:1-9.4 Employee eligibility for coverage

Determinations will be made by the Division of Unemployment and Disability Insurance relative to an employee's eligibility for coverage in the Unemployment Insurance Program.

17:1-9.5 Termination of employment; separation notice

All employing units must immediately, upon the termination of an employee's services, complete a separation notice and send it to the designated contractor.

17:1-9.6 Designated contractor

A contractor will be designated to develop and maintain a cost control program in accordance with the terms of the contract awarded by the State. The Division of Pensions will coordinate the contractor's activities with respect to State employing units and review quarterly reports of claims activity prepared by the contractor.

SUBCHAPTER 10. (RESERVED)**Subchapter Historical Note**

Subchapter 10, formerly entitled Prescription Drug Program, was filed and became effective on April 1, 1977 as R.1977 d.117. See: 9 N.J.R. 142(c), 9 N.J.R. 243(a). Sections 17:1-10.1 and 17:1-10.2 were amended and recodified to N.J.A.C. 17:9-8 and section 17:1-10.3 was repealed by R.1993 d.268, effective August 2, 1993. See: 25 N.J.R. 675(b), 25 N.J.R. 3506(b).

SUBCHAPTER 11. (RESERVED)**Subchapter Historical Note**

Subchapter 11, formerly entitled Dental Expense Program, was filed and became effective on March 15, 1978, as R.1978 d.99. See: 10 N.J.R. 38(b), 10 N.J.R. 175(d). Subchapter 11 was recodified to N.J.A.C. 17:9-9 by R.1993 d.268, effective August 2, 1993. See: 25 N.J.R. 675(b), 25 N.J.R. 3506(b).

SUBCHAPTER 12. ADMINISTRATIVE PRACTICES**17:1-12.1 Priorities**

(a) In the event the Division of Pensions is required to establish priorities for the performance of a particular obligation, such priorities shall be made known to all members involved and shall be established in the following order:

1. Those who are retiring or who contemplate retirement within the year.

2. Those who are at or beyond the normal retirement age; and
3. All other members.

17:1-12.2 Loans; cash discount value requests

No more than one request received from a member, contemplating prepayment of a loan, for the cash discount value of an outstanding loan will be honored in a calendar year.

R.1982 d.469, effective January 3, 1983.
See: 14 N.J.R. 1201(b), 15 N.J.R. 36(c).

17:1-12.3 Bankruptcy; subsequent loans

Any member of a State-administered retirement system, which permits loans to its members, who has payroll deductions for an outstanding loan balance in suspense as a result of bankruptcy proceedings, will not be permitted to obtain another loan from that retirement system until such member agrees to an appropriate loan repayment schedule that includes the aggregate outstanding balance of the previous loan or loans.

R.1983 d.39, effective February 22, 1983.
See: 14 N.J.R. 1447(b), 15 N.J.R. 245(a).

17:1-12.4 Transfers; court attendants/sheriff's officers

(a) Pursuant to chapter 133, P.L. 1982, an eligible member electing to transfer from one retirement system to the Police and Firemen's Retirement System will be required to pay, in a lump sum, the difference between his or her contributions to the retirement system of which he or she is now a member and what he or she would have contributed to the Police and Firemen's Retirement System.

1. In addition, the member must pay to the Police and Firemen's Retirement System the amount that the employer would have contributed to such system had he or she been a member from the date of his or her entrance into the first retirement system. He or she may pay this cost either in a lump sum or by scheduled payments.

(b) The employer's cost will be the difference between the member's current contribution rate in either the Public Employees' Retirement System or the County System and the current contribution rate required in the Police and Firemen's Retirement System applied to the current salary for the period of time transferred to the Police and Firemen's Retirement System. This cost must be paid in a lump sum.

(c) The employer's cost will be the difference between the employer's current normal contribution rate in either the Public Employees' Retirement System or the County System and the current normal contribution rate required in the Police and Firemen's Retirement System applied to the current salary for the period of time transferred to the Police and Firemen's Retirement System. This may

be paid in either a lump sum or by payroll deductions at least equal to his or her regular Police and Firemen's Retirement System contributions but not exceeding 10 years.

(d) Members electing to make the transfer must advise the Police and Firemen's Retirement System within 15 days after the date of the notice quoting cost that they wish to transfer. Failing to advise the Police and Firemen's Retirement System of such election within the 15 days will require that the member's pension status shall remain unchanged and his or her membership shall not be transferred to the Police and Firemen's Retirement System.

(e) Members must make payment of both the employee's and employer's lump sum cost within 30 days of the date of the original notice of cost. If the member elects to schedule payroll deductions, the lump sum payment of the employee's cost, as well as his or her election of such payroll deductions, must be received within 30 days of the original notice. If the member fails to make payment within this time period, his or her pension status shall remain unchanged and his or her membership will not be transferred to the Police and Firemen's Retirement System.

(f) Contributions standing to the credit of the member in the first retirement system shall be transferred to the Police and Firemen's Retirement System.

(g) The information required shall be forwarded to the actuary so that he or she can compute whatever the reserve transfer should be from the Public Employees' Retirement System or County System and for developing any additional cost to the employer.

(h) All additional administrative fees incurred in the development of the employer transfers shall be borne by the Police and Firemen's Retirement System's location to which the member is transferring.

(i) All payments, whether for employee or employer costs, shall be credited to the member's accounts and become his or her investment in the system.

R.1983 d.216, effective June 20, 1983.
See: 15 N.J.R. 525(a), 15 N.J.R. 1037(d).

17:1-12.5 Interfund transfers; accumulated interest

(a) Notwithstanding the provisions of N.J.A.C. 17:2-7.1, 17:3-7.1, 17:4-7.1 and 17:10-6.1 concerning interfund transfers of members between State-administered retirement systems, accumulated interest credited to the member's account in the former system will only be transferred as part of such member's contributions to the new system if the new system likewise credits interest to its member accounts.

(b) If the new system does not credit interest to its member accounts then only the contributions actually made by the member to the former system will be transferred to the new system when an interfund transfer occurs.

R.1983 d.217, effective June 20, 1983.
See: 15 N.J.R. 526(a), 15 N.J.R. 1037(e).

17:1-12.6 Purchase of service credit; continuation of death benefits coverage; maternity leaves of absence

In the event of an unpaid leave of absence for maternity, no leave of absence period granted by any public employer can be approved for a continuation of death benefits coverage or for the subsequent purchase of credit for a period in excess of three months unless the Division of Pensions receives a certification from a physician that such member was disabled due to pregnancy and resulting disability for the period in excess of three months. During the first three months of an unpaid leave of absence for maternity, the member shall be presumed to be disabled from the performance of her job duties because of her pregnancy and its resulting disabilities.

R.1983 d.334, effective August 15, 1983.
See: 15 N.J.R. 1012(b), 15 N.J.R. 1383(b).

17:1-12.7 (Reserved)

New Rule R.1986 d.211, effective June 16, 1986.
See: 18 N.J.R. 626(b), 18 N.J.R. 1310(c).
Repealed by R.1990 d.376, effective August 6, 1990.
See: 22 N.J.R. 1454(a), 22 N.J.R. 2342(b).

Section was Elimination of PFRS entry age limit; transfers.

17:1-12.8 Delinquent enrollment; employer liability

(a) An employer participating in the Public Employees' Retirement System, the Teachers' Pension and Annuity Fund, or the Police and Firemen's Retirement System, who fails to file an enrollment or transfer application for an employee required to be a member of the retirement system within one year of the effective date of compulsory enrollment or transfer, shall contribute to the retirement system the amount prescribed by (b) below. This amount is in lieu of the normal contributions which the employer would have paid to the retirement system had the employee been enrolled in a timely manner, and in addition to the amount prescribed by N.J.S.A. 43:15A-7.1, N.J.S.A. 18A:66-6.1, or N.J.S.A. 43:16A-15.1.

(b) The amount of the contribution required by (a) above shall be the employee's current base salary subject to the retirement system multiplied by the current normal contributions rate by the number of years of previous service during which the employee was required to be a member.

(c) The retirement system shall certify the amount of the contribution to the employer who shall include the amount of the next budget subsequent to the certification. The contribution shall be payable to the fund for employer contributions under the retirement system and shall be paid even if the employee is no longer employed by the employer by the date the contribution is to be paid.

New Rule, R.1987 d.293, effective July 20, 1987.
See: 19 N.J.R. 626(a), 19 N.J.R. 1320(b).

Case Notes

Housing authority agency of city, thus city liable for penalties for late enrollment of authority employees in public employees' retirement system. *Union City v. Board of Trustees of the Public Employees' Retirement System*. 93 N.J.A.R.2d (TYP) 37.

17:1-12.9 Deadline for county and municipal early retirement incentive resolutions

To provide the early retirement incentive benefits authorized under P.L. 1991, c.229, the governing body of a county or municipality shall adopt a resolution and file a certified copy of the resolution with the Director of the Division of Pensions on or before October 15, 1991. Prior to October 15, 1991, each employer covered by this law shall meet and consult with the bargaining representatives of the bargaining unit or units representing employees eligible for benefits under the law, and shall formally consider and decide whether or not to adopt the provisions of the law.

New Rule, R.1991 d.581, effective December 2, 1991.
See: 23 N.J.R. 2847(a), 23 N.J.R. 3654(a).

**SUBCHAPTER 13. NEW JERSEY STATE
EMPLOYEES' CAFETERIA PLAN**
Authority

N.J.S.A. 52:18A-30(d); P.L. 1996, c. 8,
§ 7; 26 U.S.C. §§ 125 and 129.

Source and Effective Date

R.1996 d.345, effective August 5, 1996.
See: 28 N.J.R. 1942(a), 28 N.J.R. 3808(b).

17:1-13.1 Establishment of plan

All State employees eligible to participate in the State Health Benefits Program are eligible to participate in the New Jersey State Employees' Cafeteria Plan set forth in this subchapter. In each calendar year, each employee may participate in one or more of the plan options described in this subchapter.

17:1-13.2 Unreimbursed medical spending account

(a) Each employee may elect to reduce his or her salary, through regular payroll deductions, by a specified dollar amount to create an unreimbursed medical spending account to provide for the direct payment or reimbursement by the State, or its plan administrator, of any or all medical and dental expenses not reimbursed, or only partially reimbursed, under the employee's health benefit plan or any other benefit plan, and considered by the Internal Revenue Service to be a tax deductible medical expense.

1. Examples of eligible expenses are orthodontia, surgery (including cosmetic surgery), and the deductible portion of medical and dental expenses under the employee's health benefits plan, as well as coinsurance amounts.

2. Eligible expenses include those incurred by the employee's eligible dependents.

3. Note that premium contributions required for any medical or dental coverage are paid through premium conversion and not from the unreimbursed medical spending account.

17:1-13.3 Premium conversion

If an employee selects medical or dental coverage requiring the payment of a premium contribution, the employee's salary will be reduced by the amount of the required premium contribution as part of the plan, and the employee will not have to request this benefit. If, however, an employee does not wish to participate in premium conversion, he or she must file a declination of premium conversion enrollment form with his or her benefits administrator. An employee's participation in premium conversion terminates on the employee's last day of employment.

17:1-13.4 Dependent care spending account

Each employee may elect to reduce his or her salary, through regular payroll deductions, by a specified dollar amount to create a dependent care spending account to provide for the direct payment or reimbursement by the State, or its plan administrator, of any or all dependent care expenses as provided in § 129 of the Internal Revenue Code, 26 U.S.C. § 129. Examples of eligible expenses are expenses incurred by the employee for the care of dependents under the age of 13 and dependents, including the employee's spouse, who are physically or mentally incapable of self-care.

17:1-13.5 Salary reduction elections

(a) The plan shall operate on a calendar-year basis, with each employee permitted to make a one-time salary-reduction election for the calendar year. The initial plan year shall commence on June 28, 1996, and shall conclude on December 31, 1996.

(b) Salary-reduction elections shall be made during enrollment periods announced by the Division of Pensions and Benefits and shall be submitted to the plan administrator. Information about the plan administrator and election forms shall at all times be available from the Division of Pensions and Benefits.

(c) In each calendar year, an employee establishing an unreimbursed medical spending account must elect a salary reduction amount of at least \$100.00 but not more than \$2,000 for this account.

(d) In each calendar year, an employee establishing a dependent care spending account must elect a salary reduction amount of at least \$250.00 but not more than \$5,000 (\$2,500 if married, filing separately) for this account.

(e) Once made, a salary-reduction election for a given calendar year is irrevocable; provided, however, that modifi-

cation or revocation of an election will be permitted if allowable under § 125 of the Internal Revenue Code, 26 U.S.C. § 125, as in certain circumstances involving a change in family status.

17:1-13.6 Claims for payment from plan accounts

(a) Claims for payment of expenses eligible for payment from plan accounts shall be submitted to the plan administrator. Information about the plan administrator and claim forms shall at all times be available from the Division of Pensions and Benefits.

(b) In each calendar year, the total payments from a plan account shall not exceed the total salary reduction amount elected by the employee for that account for that calendar year.

(c) Participation in each plan account will terminate on December 31 of each year. The employee, however, may continue to submit claims for expenses incurred in that calendar year through March 31 of the following year.

(d) Plan accounts may not be used to pay expenses incurred prior to the employee's participation in the account or for periods that an employee is not contributing to the plan.

17:1-13.7 Forfeiture of account balances

In the event that the amount elected by an employee to fund a plan account in a given calendar year exceeds the employee's total claims for expenses incurred in that calendar year (as submitted no later than March 31 of the following calendar year) and eligible for payment from the plan account, the balance in the plan account shall be forfeited to the State.

17:1-13.8 Compliance with Internal Revenue Code

The plan is intended to comply in all respects with the provisions of § 125 of the Internal Revenue Code, 26 U.S.C. § 125.