

CHAPTER 2

PUBLIC EMPLOYEES' RETIREMENT SYSTEM

Authority

N.J.S.A. 43:15A-17.

Source and Effective Date

R.2000 d.26, effective December 17, 1999.
See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

Executive Order No. 66(1978) Expiration Date

Chapter 2, Public Employees' Retirement System, expires on December 17, 2004.

Chapter Historical Note

Chapter 2, Public Employees' Retirement System was filed and became effective prior to September 1, 1969. Pursuant to Executive Order No. 66(1978), Chapter 2 expired on October 9, 1984.

Chapter 2, Public Employees' Retirement System, was adopted as new rules by R.1984 d.562, effective December 17, 1984. See: 16 N.J.R. 2515(b), 16 N.J.R. 3479(a).

Pursuant to Executive Order No. 66(1978), Chapter 2, Public Employees' Retirement System, was readopted as R.1989 d.597, effective November 8, 1989. See: 21 N.J.R. 2439(a), 21 N.J.R. 3788(a). Pursuant to Executive Order No. 66(1978), Chapter 2 expired on November 8, 1994.

Chapter 2, Public Employees' Retirement System, was adopted as new rules by R.1995 d.91, effective February 21, 1995. See: 26 N.J.R. 4747(a), 27 N.J.R. 754(a).

Pursuant to Executive Order No. 66(1978), Chapter 2, Public Employees Retirement System, was readopted as R.2000 d.26, effective December 17, 1999. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. ADMINISTRATION

17:2-1.1 Board meetings

(a) The Board of Trustees shall meet on the third Wednesday of each month or at such other time as may be deemed necessary by the Board.

(b) The chairperson may call for special meetings when necessary.

Amended by R.1977 d.148, effective April 27, 1977.

See: 9 N.J.R. 142(b), 9 N.J.R. 295(a).

Amended by R.2000 d.26, effective January 18, 2000.

See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

Deleted former (b); and recodified former (c) as (b), and substituted a reference to chairpersons for a reference to chairmen.

17:2-1.2 Fiscal year

The transaction of business and control of finance shall be conducted from a July 1 to June 30 fiscal year.

Amended by R.2000 d.430, effective November 6, 2000.

See: 32 N.J.R. 2660(a), 32 N.J.R. 3996(a).

Rewrote the section.

17:2-1.3 Officers and committees

(a) The members of the Board shall elect a chairperson and vice chairperson, a representative to the State Investment Council, and the Pension System Actuary Committee from its membership for the forthcoming year at its regular meeting held in July.

(b) The chairperson of the Board shall preside at all of its meetings, or in the absence of the chairperson, the vice chairperson shall assume the chairperson's responsibilities.

(c) The chairperson and the Secretary of the Board shall have the power to act for the Board in any matter which may be referred to them by the Board of Trustees.

(d) There shall be three standing committees, which are the finance committee, the retirement committee, and the executive committee. The committees shall be appointed by the chairperson at the July meeting for the forthcoming fiscal year.

(e) The finance committee shall review all investment transactions and financial reports referred to it by the Secretary for presentation to the Board at its regular monthly meetings. The committee shall consist of five members, three of whom shall be elected members of the Board.

(f) The retirement committee shall consider all cases referred to it by the Secretary and submit its recommendations to the Board at its next meeting. The committee shall consist of three members.

(g) The executive committee shall consider all cases referred to it by the Secretary and submit its recommendations to the Board at its next meeting. The committee shall consist of three members.

As amended, R.1971 d.71, effective May 18, 1971.

See: 3 N.J.R. 50(a), 3 N.J.R. 117(b).

As amended, R.1976 d.383, effective December 6, 1976.

See: 8 N.J.R. 537(c), 8 N.J.R. 48(a).

Amended by R.2000 d.26, effective January 18, 2000.

See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

Substituted references to chairpersons for references to chairmen throughout; in (a), inserted a reference to a representative to the State Investment Council and the Pension System Actuary Committee; and in (e), substituted "five members, three of whom shall be elected members of the Board" for "three members" at the end.

17:2-1.4 Election of member-trustee

(a) The procedures for the election of a State, municipal, or county trustee representative to the Public Employees' Retirement System (PERS) Board of Trustees are set forth in this section.

(b) Eligible candidates shall include any active or retired member of the PERS. Only State members may seek State seats, only municipal members may seek municipal seats, and only county members may seek county seats on the Board of Trustees. All candidates shall comply with any and all requirements as provided by law and these rules. Any candidate who fails to comply with the law and these rules is automatically disqualified as a candidate.

(c) The following apply to election notices:

1. At least nine months prior to the expiration of the term of each elected trustee or immediately upon a vacancy on the Board, a notice shall be prepared and distributed by the Secretary of the Board or a contracted vendor through the certifying officers to each member who is eligible to vote.

Amended by R.1981 d.58, effective February 20, 1981.
See: 12 N.J.R. 554(b), 13 N.J.R. 247(b).

(c) deleted.

Amended by R.2000 d.26, effective January 18, 2000.
See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

In (b), deleted a reference to dual enrollments, and substituted "required" for "prescribed" following "coverage is".

17:2-2.2 Multiple employments

(a) Any employee who has enrolled in a covered position must also enroll in any other position regardless of the employee's employment status in such other position if the employee's meets the salary and Social Security qualifications for enrollment. However, if an employee who is ineligible for membership later accepts an additional position which makes the employee eligible for membership in that second position, the employee's ineligibility for membership in the earlier position is not altered by the employee's enrollment in the Public Employees' Retirement System.

(b) An elected official must also enroll on the basis of such office if the elected official is enrolled or is enrolling on the basis of other public employment. If the elected official was employed in the optional position first, the enrollment date for the optional position is established as the effective date of enrollment of the position which required the elected official to establish membership in the retirement system. If the individual has already established membership in the retirement system, the effective date of enrollment of the optional employment is established as the date of hire.

Amended by R.1974 d.230, effective August 19, 1974.

See: 6 N.J.R. 32(a), 6 N.J.R. 361(a).

Amended by R.1979 d.399, effective October 9, 1979.

See: 11 N.J.R. 411(a), 11 N.J.R. 596(b).

Amended by R.1988 d.351, effective August 1, 1988.

See: 20 N.J.R. 969(b), 20 N.J.R. 1953(c).

Deleted requirement that PERS employees be paid in four calendar quarters to be eligible for PERS membership.

Amended by R.2000 d.26, effective January 18, 2000.

See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

Rewrote (b); and deleted a former (c).

17:2-2.3 Ineligible persons

(a) The following classes of persons are ineligible for membership in the system:

1. Motor vehicle agents and their non-State employees;
2. Licensing agents of the Fish and Game Division and their non-State employees;
3. Any person paid from State, county, local public, or Federal funds who is a member of or required to join the Federal Civil Service Retirement System on total salary;
4. Any employee who is provisionally appointed to a Civil Service position is considered as an employee with temporary employment status and is ineligible to establish membership until the employee receives a regular Civil Service appointment, or has one year of continuous service. This does not apply to anyone who is already

enrolled as a member. Breaks in service of less than 30 days do not negate the continuity of service;

5. Any employee who is employed on a seasonal basis. Seasonal employment is a category of occasional employment which the employer, consistent with past practices, does not expect to lead to permanent employment and is not a temporary position as defined under N.J.A.C. 17:2-2.4(c). To qualify as seasonal employment, work periods shall not extend beyond six consecutive months for locations that report contributions on a 12-month basis, or five consecutive months for locations that report contributions on a 10-month basis, and severance of the employer/employee relationship shall occur during breaks in employment, and such breaks shall exceed 30 consecutive days;

6. Any person not in the career, senior executive and unclassified service, or a regular budgeted position, who is employed on an on-call basis and works on average less than 10 days a month throughout the regular work year of the employer. This type of employment is temporary employment which is not continuous;

7. Any retired member who returns to a PERS eligible position for which the calendar year compensation is less than the calendar year compensation limit for exclusion from membership pursuant to N.J.S.A. 43:15A-57.2b. To determine if the calendar year compensation for employment received by a retired member is below the calendar year compensation limit, all of the calendar year compensation received from employment with the same employer shall be combined, and all of the calendar year compensation from employment with more than one employer shall be considered separately. For the purposes of this paragraph, a "retired member" is a former member who has terminated all employment covered by the retirement system, who has not received compensation from employment covered by the retirement system for at least 30 consecutive calendar days, who is not receiving a disability retirement allowance and whose retirement benefit has become due and payable as provided in N.J.A.C. 17:2-6.2;

8. Any person who is employed in an intermittent title. The designation "intermittent" shall be used for those titles in the career service in which work responsibilities are characterized by unpredictable work schedules and which do not meet the normal criteria for regular, year-round, full-time or part-time assignments; and

9. Any temporary employee hired under the Workforce Investment Act of 1998. Temporary employees hired under the Workforce Investment Act shall be deemed to be Job Training Partnership Act (JTPA) employees and therefore ineligible for PERS membership pursuant to N.J.S.A. 43:15A-7h.

Amended by R.1981 d.58, effective February 20, 1981.

See: 12 N.J.R. 554(b), 13 N.J.R. 247(b).

(a)4: delete "is not paid"; add "does not earn wages", "of a year", and "is considered . . . community".

Amended by R.1983 d.7, effective February 7, 1983.

See: 14 N.J.R. 1150(a), 15 N.J.R. 162(d).

Treatment of provisional appointments and seasonal/occasional employment.

Amended by R.1989 d.312, effective June 19, 1989.

See: 21 N.J.R. 437(b), 21 N.J.R. 1743(a).

Added eligibility to establish membership in PERS with one year of continuous service, without regular Civil Service appointment, to (a)4. Temporary employment defined and excluded, at (a)6.

Amended by R.1998 d.321, effective July 6, 1998.

See: 30 N.J.R. 1025(a), 30 N.J.R. 2513(c).

In (a), added 7.

Amended by R.1999 d.290, effective August 16, 1999.

See: 31 N.J.R. 1580(a), 31 N.J.R. 2366(a).

In (a), substituted references to non-State employees for references to employees in 1 and 2, added the last sentence in 4, rewrote 5, substituted a reference to calendar year compensation for a reference to annual compensation in the first sentence, substituted "calendar days, who is not receiving a disability retirement allowance" for "days," following "consecutive" in the last sentence, and substituted references to calendar year compensation and calendar year compensation limits for references to compensation and compensation limits throughout 7, and added 8.

Administrative change.

See: 32 N.J.R. 2925(a).

Amended by R.2001 d.117, effective April 2, 2001.

See: 32 N.J.R. 4239(a), 33 N.J.R. 1114(a).

In (a), added 9.

Case Notes

Legislative positions held by employees as Assistant to Speaker of General Assembly, Assistant Secretary of Senate and Secretary of Senate held not within explicit exclusions for temporary or seasonal employees or employees whose salary was less than \$500, but were regular State employment positions qualifying employee for PERS benefits, notwithstanding twice yearly rather than quarterly salary payments. *Gladden v. Bd. of Trustees, Public Employees' Retirement System*, 171 N.J.Super 363, 409 A.2d 294 (App.Div.1979).

Seasonal continuing education college instructors not eligible for PERS enrollment as seasonal employees. *Josephs v. Board of Trustees, Public Employees' Retirement System*, 97 N.J.A.R.2d (TYP) 87.

Regulation excluding teacher from purchase of prior service credit, on grounds that her sporadic substitute teaching during period in question constituted break in service, was inconsistent with N.J.S.A. 18A:66-14, and thus would not be applied to deny teacher eligibility for purchase. *Walling v. Teachers' Pension and Annuity Fund*, 96 N.J.A.R.2d (TYP) 107.

Retiree's temporary reemployment in public service rendered him ineligible for retirement benefits. *Bedell v. PERS*, 96 N.J.A.R.2d (TYP) 39.

Substitute teacher was temporary employee within meaning of statutory amendment including temporary public employees in retirement system. *Schulaner v. Board of Trustees*, 92 N.J.A.R.2d (TYP) 55.

17:2-2.4 Enrollment date

(a) New employees in the classified service shall be considered as beginning their service on the date of their regular appointments.

1. For employers who report on a monthly basis, the compulsory enrollment date shall be fixed as the first of the month for an employee whose regular appointment date falls between the first through the 16th of the month and the compulsory enrollment date shall be fixed as the first of the following month for an employee whose regular appointment date falls between the 17th and the end of the month.

2. For employers who report on a biweekly basis, the compulsory enrollment date shall be fixed as the first day of the pay period for an employee whose appointment date falls on the first through seventh day of the biweekly pay period. The compulsory enrollment date shall be fixed as the first day of the following biweekly pay period for an employee whose appointment date falls on any subsequent date within that pay period.

(b) If an employee is an optional enrollee the employee shall be enrolled as of the first of the month for those whose employers report on a monthly basis or the first day of the next biweekly pay period for those whose employers report on a biweekly basis following the receipt of the enrollment application.

(c) An employee in the unclassified service or an elected position shall be considered as beginning service on the date of the original appointment, or the date when the employee assumed duties of the elective office, as the case may be.

1. For local employers not covered by Civil Service, a regular appointment shall constitute the date the employee originally accepted employment in a regular budgeted position.

2. For employers who report on a monthly basis, the compulsory enrollment date shall be fixed as the first of the month for an employee whose beginning employment date falls between the first through 16th of the month and the compulsory enrollment date shall be fixed as the first of the following month for an employee whose beginning employment date falls between the 17th and the end of the month.

3. For employers who report on a biweekly basis, the compulsory enrollment date shall be fixed as the first day of the pay period for an employee whose date of hire falls on the first through seventh day of the biweekly pay period. The compulsory enrollment date shall be fixed as the first day of the following biweekly pay period for an employee whose date of hire falls on any subsequent date within that pay period.

(d) An employee of a Civil Service employer who is not in a classified or unclassified position or an employee of a non-Civil Service employer who is not in a regular budgeted position may be considered a temporary employee by the employer for the one-year period following the employee's date of hire, but if the employment continues into a second year, the employee will be required to enroll immediately, as follows:

1. For employees whose employers report on a monthly basis compulsory enrollment date will be the first of the month following the end of the one-year (12-month) period.

2. For employees whose employers report on a bi-weekly basis, the compulsory enrollment date will be the first day of the pay period following the end of the one-year (12-month) period.

Amended by R.1979 d.399, effective October 9, 1979.

See: 11 N.J.R. 411(a), 11 N.J.R. 596(b).
Amended by R.1987 d.144, effective April 6, 1987.
See: 18 N.J.R. 2320(b), 19 N.J.R. 565(a).
Amended by R.2000 d.26, effective January 18, 2000.
See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).
Rewrote the section.

Municipal court judge's duties as presiding judge were neither temporary nor extracurricular. *Rokos v. State, Dept. of Treasury, Div. of Pensions, Public Employees' Retirement System*, 236 N.J.Super. 174, 564 A.2d 1217 (A.D.1989).

Municipal court judge's position as presiding judge even if temporary was not disqualification from pension creditability for presiding judge salary. *Rokos v. State, Dept. of Treasury, Div. of Pensions, Public Employees' Retirement System*, 236 N.J.Super. 174, 564 A.2d 1217 (A.D.1989).

Action of utilities authority and borough in creating positions, respectively, of general counsel and municipal prosecutor, and in appointing person to those positions, held not to constitute salary adjustments within the meaning of public employees' pension law excluding salary adjustments from compensation to be used as the basis for computing retirement pay. *Hiering v. Bd. of Trustees, Public Employees' Retirement System*, 197 N.J.Super. 14, 484 A.2d 20 (App.Div.1984).

Salary creditable; pension and veteran retirement benefits. *Berger v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 187.

Termination of fixed term position does not constitute discontinuation from service through no fault of employee within meaning of statute providing for extension of membership in retirement system. *D'Alessio v. board of Trustees of the Public Employees' Retirement System*, 92 N.J.A.R.2d (TYP) 100.

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.

Petitioner's claim for inclusion for pension calculation of salary received as town sewer attorney denied as services rendered were of the type usually rendered by an independent contractor rather than an employee: claim for inclusion for pension calculation of vouchered fees received as town sewer attorney denied as such fees are outside the statutory definition of compensation (Board's Final Decision). *Fasolo v. Bd. of Trustees, Public Employees' Retirement System*, 6 N.J.A.R. 4 (1980), affirmed in part and reversed in part and remanded 181 N.J.Super. 434, 438 A.2d 328 (App.Div.1981).

17:2-4.2 Leave with pay

(a) If a member is granted a leave of absence with sufficient salary to cover a full normal contribution, including any arrears or loan payments, the privilege of the member to obtain credit on the basis of such salary shall not extend beyond six months from the date of the leave.

(b) If the leave with pay extends beyond six months, the member will be required to make contributions only if the member is receiving 50 percent or more of regular base salary.

Amended by R.2000 d.26, effective January 18, 2000.
See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

In (b), neutralized a gender reference.

Case Notes

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.

17:2-4.3 School year members; 10 and 12 months

(a) Ten month members who are employed and are compensated for employment for the full normal school year by the board of education are entitled to receive 12

months of service credit. Members will not receive service credit for months during the normal school year when they are not actively employed and did not receive salary.

(b) A 12 month member is presumed to work each month of the fiscal year.

(c) Not more than one year's service credit will be given during any period of 12 consecutive months.

(d) If a member terminates a position that requires less than 12 months to constitute one full year of service at the end of the normal academic school year and accepts a 12 month position with the same employer or another employer that participates in the Public Employees' Retirement System and begins employment on or before the date that was established by the previous year's contract position, such member will receive service credit within the Public Employees' Retirement System for the period between the end of the previous contract and the new 12 month position.

Amended by R.1989 d.423, effective August 7, 1989.
See: 21 N.J.R. 979(a), 21 N.J.R. 2300(a).

Reference to 10-month employment as a minimum deleted.
Amended by R.1993 d.296, effective June 21, 1993.
See: 25 N.J.R. 908(a), 25 N.J.R. 2701(a).
Amended by R.1994 d.162, effective April 4, 1994.
See: 26 N.J.R. 108(a), 26 N.J.R. 1537(c).
Amended by R.1995 d.61, effective February 21, 1995.
See: 26 N.J.R. 3823(a), 27 N.J.R. 754(b).

17:2-4.4 Loan tolerance

Interest will be calculated on a periodic basis on the unpaid loan balance. If scheduled payments are not paid timely, interest will be accrued and added to the remaining outstanding loan balance. If, at the end of the loan schedule, there is a balance of less than \$10.00, it will be written off. If the balance is equal to or greater than \$10.00, the member will be assessed.

New Rule, R.1987 d.511, effective December 7, 1987.
See: 19 N.J.R. 194(a), 19 N.J.R. 2303(d).

Old rule was loan revaluation.

17:2-4.5 (Reserved)

Repealed by R.2000 d.26, effective January 18, 2000.
See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).
Section was "Approved leave".

17:2-4.6 Minimum adjustment

In order to facilitate the reconciliation of a member's account, no rebates or additional contributions shall be made where an adjustment involves an amount of \$2.00 or less during a calendar quarter.

Amended by R.2000 d.26, effective January 18, 2000.
See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

Substituted "\$2.00 or less during a calendar quarter" for "\$3.00 or less" at the end.

17:2-4.7 Part-time hourly, on-call or per diem salary

(a) Deductions from the salary of a member who is paid on a part-time hourly, on-call or per diem basis and who does not have an annual contractual base salary shall be calculated using actual creditable salary earned. If a member's actual creditable salary should drop below one-twelfth of the minimum threshold salary required for enrollment into the PERS for 12-month employees or one-tenth of the minimum threshold salary required for enrollment into the PERS for 10-month employees, pension contributions shall not be deducted from that member's creditable salary, and pension credit shall not be earned, for that month.

(b) A member's creditable salary shall be reviewed by the employer at the end of each calendar year. If the minimum threshold salary has not been met for the previous year, and is not expected to be met in the commencing year, the member's status shall become that of an inactive member.

As amended by R.1974 d.230, effective August 19, 1974.
See: 6 N.J.R. 32(a), 6 N.J.R. 361(a).
Amended by R.1999 d.433, effective December 20, 1999.
See: 31 N.J.R. 2297(a), 31 N.J.R. 4292(a).
Rewrote the section.

17:2-4.8 Military leave prior to August 1, 1974; employer contributions

(a) The following conditions apply to employer contributions for service during military leave prior to August 1, 1974:

1. Military leave contributions remitted by an employer on behalf of an employee, who does not return to the payroll for the minimum 90-day period required by N.J.S.A. 43:15A-41a, shall be retained by the System. Such contributions shall be transferred from the annuity savings fund to the contingent reserve fund.
2. Military leave contributions remitted by an employer shall be based on the employee's salary at the time the member entered military service.
3. Payroll as referred to above shall be interpreted to mean any public payroll in New Jersey, not necessarily the payroll of the employer where the member was employed when the member entered military service.

Amended by R.2000 d.26, effective January 18, 2000.
See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).
Rewrote the section.

17:2-4.9 Eligibility for loan

Only active contributing members of the System may exercise the privilege of obtaining a loan. The member's total outstanding loan balance shall not exceed the lesser of 50 percent of the accumulated deductions posted to the member's account or \$50,000.

Amended by R.2000 d.26, effective January 18, 2000.
See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).
Rewrote the section.

Amended by R.2002 d.267, effective August 19, 2002.
See: 34 N.J.R. 1599(a), 34 N.J.R. 2970(b).

Inserted "the lesser of" preceding "50" and "or \$50,000" following "account".

17:2-4.10 Waiver of retirement benefits upon withdrawal

Any member, who makes application for withdrawal from the System, who may otherwise be eligible to make application for a retirement benefit, shall be required to execute and file a statement with the System setting forth the benefits the member is waiving in favor of withdrawal, before the member's application for withdrawal may be processed. If a member is eligible to begin receiving a monthly retirement allowance (age 60 or more, or 25 years or more of credited service), the Division shall inform the member of the estimated amount of the retirement allowance and shall require the member to sign a waiver of such benefits, should the member still wish to withdraw.

Amended by R.2000 d.26, effective January 18, 2000.
See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).
Rewrote the section.

17:2-4.11 Termination; withdrawal

(a) Under the terms of the statutes a member may withdraw from the System only if the member terminates all employment.

(b) No application shall be approved, if:

1. The member is on official leave of absence.
2. The member certifies that employment has not ended or that the member has taken another position subject to coverage.
3. The member has been dismissed or suspended from employment. In this event, such a member will be eligible to withdraw if the member has formally resigned from the position or there is no legal action contemplated or pending and the dismissal has been adjudged final.
4. A multiple member has not terminated employment in all covered positions.
5. The member has a claim pending for Workers' Compensation benefits.

As amended by R.1979 d.399, effective October 9, 1979.
See: 11 N.J.R. 411(a), 11 N.J.R. 596(b).
Amended by R.2000 d.26, effective January 18, 2000.
See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).
Neutralized gender references throughout.

Case Notes

Division of Unemployment and Disability Insurance Director held not to have surrendered his position in classified service when he was granted an unpaid leave of absence to serve an unclassified appointment as assistant commissioner, income security; demotion and layoff rules found not to adequately recognize rights inherent in a leave of absence; doctrine of incompatible offices held not to mandate loss of classified position, since there was no dual office holding. In re Viviani, 184 N.J. Super. 582, 446 A.2d 1239 (App.Div.1982), certification denied 91 N.J. 533, 453 A.2d 854 (1982).

Held that where State employee did not discontinue employment or terminate service until her resignation, which coincided with terminal date of her leave of absence, and where she was reemployed by State less than two consecutive years following her resignation, her membership in the State pension system never ceased. *Blinn v. Bd. of Trustees, Public Employees' Retirement System*, 173 N.J.Super. 277, 414 A.2d 263 (App.Div.1980).

Proceeds of group life insurance; deceased not active member of retirement system on date of death. *Johnson v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 204.

Employee with two years of consecutive discontinued service was not a member of system entitled to ordinary disability retirement. *Zakarias v. Retirement System*, 93 N.J.A.R.2d (TYP) 308.

Reactivation of retirement account not warranted once membership expired two years after cessation of covered employment. *Smartt v. Retirement System*, 93 N.J.A.R.2d (TYP) 260.

No public employee retirement system life insurance benefits for widower of employee terminated from employment four months earlier. *Estate of Stanton v. Board of Trustees, Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 220.

Former public employee voluntarily resigned from employment, and thus not entitled to extension of inactive membership in public employees' retirement system. *Perlmutter v. Board of Trustees of the Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 140.

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.

Former member of retirement system not eligible for ordinary disability retirement benefits more than two years after he discontinued his employment. *Cartagena v. Public Employees' Retirement System*, 92 N.J.A.R.2d (TYP) 12.

17:2-4.12 Deductions

(a) A full pension and contributory insurance deduction shall be taken for the Public Employees' Retirement System in any payroll period (monthly or biweekly) in which the member is paid a sufficient amount to make a full normal deduction, plus any other arrears or loan deductions then in effect.

(b) No deductions shall be taken, nor service credit given, in any pay period for employers who report on a biweekly basis or in any month, for employers who report on a monthly basis, in which the employee's salary is not sufficient to cover the required deductions for the Public Employees' Retirement System.

Amended by R.2000 d.26, effective January 18, 2000.

See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

Rewrote the section.

Case Notes

Held that where State employee did not discontinue employment or terminate service until her resignation, which coincided with terminal

date of her leave of absence, and where she was reemployed by State less than two consecutive years following her resignation, her membership in the State pension system never ceased. *Blinn v. Bd. of Trustees, Public Employees' Retirement System*, 173 N.J.Super. 277, 414 A.2d 263 (App.Div.1980).

17:2-4.13 Active employment; membership requirement

All employees, otherwise eligible, who are not actively employed on the date of their enrollment will not be covered by the group life insurance program until the day they return to service.

R.1974 d.230, effective August 19, 1974.

See: 6 N.J.R. 32(a), 6 N.J.R. 361(a).

Amended by R.2000 d.26, effective January 18, 2000.

See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

Inserted "the day" following "until".

Case Notes

Held that no group life insurance death benefits were payable to deceased county employee's beneficiaries where employee was on leave without pay when PERS enrollment was to commence and employee died before going back on payroll. *Burns v. Div. of Pensions, Public Employees' Retirement System*, 180 N.J.Super. 1, 433 A.2d 778 (App. Div.1981).

17:2-4.14 Continuance of membership; transfer

Once an employee establishes membership in the retirement system, the member is eligible to continue such membership should the member be temporarily employed in a position covered by the system.

R.1979 d.399, effective October 9, 1979.

See: 11 N.J.R. 411(a), 11 N.J.R. 596(b).

Amended by R.2000 d.26, effective January 18, 2000.

See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

Neutralized gender references throughout.

17:2-4.15 Ineligible service

(a) Members shall not be granted prior service or membership credit for the following employment:

1. Honorary positions, without salary;
2. Motor vehicle agents or as non-State employees of the agent; and
3. Licensing agent of the Division of Fish, Game and Shellfisheries or as non-State employees of the agent.

Recodified from N.J.A.C. 17:2-5.9 and amended by R.2000 d.26, effective January 18, 2000.

See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

In (a), deleted a former 2, recodified former 3 and 4 as 2 and 3, and substituted references to non-State employees for references to employees in the new 2 and 3.

Amended by R.1986 d.432, effective October 20, 1986.

See: 18 N.J.R. 1451(a), 18 N.J.R. 2135(b).

Deleted subsections (b) and (d) and recodified accordingly.

Administrative Correction to (a): Deleted text "at least one month".

Amended by R.2000 d.26, effective January 18, 2000.

See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

Rewrote the section.

Amended by R.2001 d.131, effective May 7, 2001.

See: 33 N.J.R. 372(a), 33 N.J.R. 1398(a).

In (d), substituted "a member's" for "an" and inserted "medical" preceding "reports"; and added (e).

Amended by R.2002 d.268, effective August 19, 2002.

See: 34 N.J.R. 1600(a), 34 N.J.R. 2971(a).

Added new (c); recodified former (c) as (d) and inserted "A, B, C, or D," following "4,,"; recodified former (d) and (e) as (e) and (f).

Case Notes

Employee who sustained back injury which, at most, contributed to progression of arthritic condition by aggravation, held not to have disability which was a direct result of a traumatic event so as to entitle the employee to disability retirement benefits. *Gerba v. Bd. of Trustees, Public Employees' Retirement System*, 83 N.J. 174, 416 A.2d 314 (1980).

To be eligible for accidental disability retirement benefits where disability involved combined effect of traumatic event and underlying disease, traumatic source must constitute the essential significant or substantial contributing cause of resultant disability; employee's slip and fall against automobile tailgate held a traumatic event: remand to Appellate Division to determine whether traumatic event was of such nature as to allow benefits eligibility under enunciated standard. *Korelnia v. Bd. of Trustees, Public Employees' Retirement System*, 83 N.J. 163, 416 A.2d 308 (1980).

Special education teacher who suffered from numerous and unrelated ailments which rendered her unable to perform duties associated with her job was entitled to ordinary disability retirement allowance. *Daniels v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 292.

Tick bite was not traumatic event for purpose of awarding accidental disability benefits. *Ackerman v. PERS*, 96 N.J.A.R.2d (TYP) 42.

Retirement application had to be executed and filed prior to effective date of the retirement. *Knabner v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 85.

Former member was without standing to refile application for accidental disability retirement allowance. *Coleman v. Retirement System*, 93 N.J.A.R.2d (TYP) 265.

Breach of duty by city employees did not qualify nurse for modification of retirement date. *Kuehner v. Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 190.

Retirement application; effectiveness; arrival at New Jersey Public Employees' Retirement System. N.J.S.A. 43:15A-47. *Phillips v. Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 163.

Employee with diminished mental capacity due to alcoholism not entitled to retroactive effective retirement date. *Young v. Public Employees' Retirement System*. 93 N.J.A.R.2d (TYP) 53.

Agreement with employer did not entitle employee to retroactive requested effective date of retirement. *Epps v. Public Employees' Retirement System*. 93 N.J.A.R.2d (TYP) 45.

Approval of tax assessor's application for service retirement rescinded where tax assessor's close corporation was awarded contracts for essentially the same tax assessment work. *Board of Trustees v. Atkinson*, 92 N.J.A.R.2d (TYP) 8.

Decedent's signing of application for retirement and filing of support documents prior to his death held to constitute substantial compliance with regulatory requirements, in light of Division's failure to act on documents' deficiency in a timely fashion; survivors held eligible for

insurance benefits. *Giaconia v. Bd. of Trustees, Public Employees' Retirement System*, 2 N.J.A.R. 304 (1980).

17:2-6.2 Effective date

A member's retirement allowance shall not become due and payable until 30 days after the date the Board approved the application for retirement or 30 days after the date of the retirement, whichever is later.

New Rule, R.2000 d.26, effective January 18, 2000.

See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

Former N.J.A.C. 17:2-6.2, Effective dates; change, recodified to N.J.A.C. 17:2-6.3.

17:2-6.3 Effective dates; change

(a) A member shall have the right to withdraw, cancel or change an application for retirement at any time before the member's retirement allowance becomes due and payable by sending a written request signed by the member. Thereafter the retirement shall stand as approved by the Board.

(b) Except in the event of deferred retirement, if a member requests a change of retirement date or option selection before the member's retirement allowance becomes due and payable, said change will require approval of the Board and the revised retirement allowance shall not become due and payable until 30 days have elapsed following the effective date or the date the Board met and approved the change in the member's retirement application, whichever is later.

(c) A deferred retirement shall become effective on the first of the month following the member's 60th birthday. At the election of a member, if the member's 60th birthday falls on the first of a month, the retirement shall become effective on that date, provided the member files a timely retirement application pursuant to N.J.S.A. 43:15A-38(b) and requests that date as the retirement date.

(d) In the case of deferred retirement, if an applicant desires to amend the retirement application, the amended application must be filed with the Division a minimum of one month prior to the effective date of retirement.

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

Amended by R.1974 d.230, effective August 19, 1974.

See: 6 N.J.R. 32(a), 6 N.J.R. 361(a).

Amended by R.1979 d.399, effective October 9, 1979.

See: 11 N.J.R. 411(a), 11 N.J.R. 596(b).

Amended by R.1981 d.274, effective August 6, 1981.

See: 13 N.J.R. 244(f), 13 N.J.R. 525(b).

(f) added.

Recodified from N.J.A.C. 17:2-6.2 and amended by R.2000 d.26, effective January 18, 2000.

See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

Rewrote the section. Former N.J.A.C. 17:2-6.3, Effective date; death prior thereto, repealed.

Case Notes

Reversal and remand of denial of veteran's retirement benefits was warranted where initial approval of application was rescinded without notice. *Galvano v. Board of Trustees of Public Employees' Retirement System*, 225 N.J.Super. 388, 542 A.2d 926 (A.D.1988).

Retirement allowance was available only for those months after filing application for retirement. *Kamin v. Retirement System*, 93 N.J.A.R.2d (TYP) 249.

Employee with diminished mental capacity due to alcoholism not entitled to retroactive effective retirement date. *Young v. Public Employees' Retirement System*. 93 N.J.A.R.2d (TYP) 53.

Agreement with employer did not entitle employee to retroactive requested effective date of retirement. *Epps v. Public Employees' Retirement System*. 93 N.J.A.R.2d (TYP) 45.

Applicant not entitled to change effective date of service retirement so as to qualify for early retirement incentive program with effective date after her retirement. *Pykon v. Board of Trustees of the Public Employees' Retirement System*. 92 N.J.A.R.2d (TYP) 144.

Absent a showing of a decedent's incompetence, mutual mistake, fraud or other compelling equitable considerations, a retirement application shall not be reformed; petition to change pension payment option denied. *Schaeffer v. Bd. of Trustees, Public Employees' Retirement System*, 8 N.J.A.R. 427 (1984).

17:2-6.4 Outstanding loan

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

1. In full before the retirement allowance becomes due and payable as provided in N.J.A.C. 17:2-6.3; or
2. By deductions from retirement benefit payments of the same monthly amount deducted from the member's compensation immediately preceding retirement until the loan balance, with interest, is repaid as authorized by P.L. 1999, c.132. If the member does not request repayment in full, repayment is by deductions in the same monthly amount deducted from the member's compensation immediately preceding retirement.

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

Amended by R.1999 d.409, effective December 6, 1999.
See: 31 N.J.R. 2519(a), 31 N.J.R. 4119(a).

In (a), rewrote 2i, and added 3; deleted former (b) and (c); and recodified former (b) as (d).

Amended by R.2002 d.267, effective August 19, 2002.

See: 34 N.J.R. 1599(a), 34 N.J.R. 2970(b).

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

17:2-6.5 Willful negligence

(a) Willful negligence is defined as:

1. Deliberate act or deliberate failure to act; or,
2. Such conduct as evidences reckless indifference to safety; or,
3. Intoxication, operating as the proximate cause of injury.

17:2-6.6 Retirement credit

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

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

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

As amended, R.1974 d.230, effective August 19, 1974.

See: 6 N.J.R. 32(a), 6 N.J.R. 361(a).

As amended, R.1981 d.274, effective August 6, 1981.

See: 13 N.J.R. 244(f), 13 N.J.R. 525(b).

(b) added.

Amended by R.1991 d.98, effective February 19, 1991.

See: 22 N.J.R. 3321(a), 23 N.J.R. 417(a).

Amount of pension contribution clarified.

Amended by R.2000 d.26, effective January 18, 2000.

See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

Case Notes

Conviction for crime involving continuing course of conduct and breach of public trust defeats application for service credit during time crime committed. *De Angelo v. Public Employee's Retirement System*, 97 N.J.A.R.2d (TYP) 34.

Pension credit; time of dishonorable employment with county. *Cavaliere v. Board of Trustees of the Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 178.

17:2-6.7 Disability determination

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

1. The applicant was considered a member at the time of filing the application for a disability retirement allowance or is covered by the provisions of N.J.A.C. 17:2-6.15;
2. The member is physically or mentally incapacitated for the performance of duty; and
3. The member is not eligible for accidental disability since the incapacity is not a direct result of a traumatic event occurring during and as a result of the performance of the member's regular or assigned duties; and
4. The member meets the service requirement for ordinary disability.

Amended by R.2000 d.26, effective January 18, 2000.

See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

In (a), rewrote 1, and neutralized a gender reference in 3.

Case Notes

To be eligible for accidental disability retirement benefits where disability involved combined effect of traumatic event and underlying disease, traumatic source must constitute the essential significant or substantial contributing cause of resultant disability; employee's slip and fall against automobile tailgate held a traumatic event; remand to Appellate Division to determine whether traumatic event was of such nature as to allow benefits eligibility under enunciated standard (citing former rule). *Korelnia v. Bd. of Trustees, Public Employees Retirement System*, 83 N.J. 163, 416 A.2d 308 (1980).

Nurse entitled to accidental disability pension due to traumatic injury at work. *Mullen v. Board of Trustees of the Public Employees' Retirement System*, 97 N.J.A.R.2d (TYP) 110.

Incident's lack of traumatic event defeats application for accidental disability retirement benefits. *Ming v. Board of Trustees, Public Employees' Retirement System*, 97 N.J.A.R.2d (TYP) 90.

Denial of accidental disability benefits due to employee's failure to establish total and permanent disability affirmed. *Oliver v. Board of Trustees of the Public Employees' Retirement System*, 97 N.J.A.R.2d (TYP) 77.

Electrical installer suffering personal injury from falling air conditioner unit entitled to accidental disability pension. *Zillante v. Board of*

Trustees of the Public Employee's Retirement System, 97 N.J.A.R.2d (TYP) 44.

Permanent injuries not arising from great rush of force or uncontrollable power fail to meet test to receive accidental disability benefits. *DiBlashi v. Public Employee's Retirement System*, 97 N.J.A.R.2d (TYP) 36.

Failure to prove great rush of force or uncontrollable power defeats claim for accidental disability benefits. *Pino v. Public Employee's Retirement System*, 97 N.J.A.R.2d (TYP) 21.

Ordinary disability retirement benefits granted bus driver who sustained shoulder injury after fall in parking lot. *Hessler v. Public Employees' Retirement System*, 97 N.J.A.R.2d (TYP) 13.

Bus driver who sustained lower back injury when stack of tires fell on him did not suffer traumatic event and thus was not entitled to accidental disability retirement benefits. *Pino v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 298.

Motor vehicle operator who sustained arm and shoulder injuries when van door malfunctioned, and who later reinjured her arm while maneuvering client's wheelchair, was not entitled to accidental disability retirement benefits; neither incident constituted qualifying traumatic event. *McDaniel v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 284.

Survivors of maintenance worker whose blood alcohol level was in excess of legal limit at time he died in work-related automobile collision could not recover accidental death benefits; employee who drives automobile while intoxicated is willfully negligent and thus ineligible to receive such benefits. *Komiskey v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 271.

Housing inspector who experienced chest pains after climbing eight flights of stairs did not suffer traumatic event, and thus was not eligible for accidental disability retirement benefits. *Cartagena v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 266.

Clerk who tripped and fell down flight of stairs failed to establish that injuries she suffered rendered her unable to perform her regular employment duties, and thus she was not eligible for accidental disability retirement benefits. *Bonomo v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 261.

Injuries sustained by clerk stenographer when she fell over several boxes after being frightened by rat in workplace lunchroom were not caused by requisite "great rush of force or uncontrollable power," and thus clerk was not entitled to accidental disability retirement benefits. *Hunter v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 252.

Laborer who injured himself while attempting to lower entire man-hole casing by himself was not entitled to accidental disability retirement benefits; injury was not caused by requisite "great rush of force or uncontrollable power." *Tomasi v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 239.

Public works employee injured in slip and fall on bus steps did not suffer traumatic event entitling him to accidental disability retirement benefits. *Yodice v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 210.

Housing inspector's fall while exiting car at end of day not caused by traumatic event, and not in course of regular assigned duties, and thus no eligibility for accidental disability retirement benefits. *Delunas v. Board of Trustees of the Public Employees' Retirement System*. 93 N.J.A.R.2d (TYP) 42.

SUBCHAPTER 7. TRANSFERS

17:2-7.1 Honorable service; interfund transfers; State-administered retirement systems

(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. Therefore, the Board of Trustees of the present System shall disallow the transfer of all or a portion of prior service of any member of the System for misconduct occurring during the member's prior public service which renders that prior service, or part thereof, dishonorable.

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

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

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

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

4. The member's service credits established in the present system shall be transferred into the new system.

5. The member is not eligible to transfer service credit if any of the following conditions apply:

i. The member has withdrawn the previous membership;

ii. The member has credit in the present system for service earned after the date of enrollment in the new system (concurrent service) unless the member meets the criteria established by P.L. 2001, c.341 (N.J.S.A. 43:15A-14). P.L. 2001, c.341 provides that a member of the Teachers' Pension and Annuity Fund (TPAF) at the time of enrollment in the Public Employees' Retirement System (PERS) may transfer the non-concurrent

TPAF service if the member ceased to be an active contributing member of the TPAF three or less years from the date of enrollment in the PERS. The member must apply to transfer this service no more than two years from the date of the last contribution in the TPAF unless the member is vested in the TPAF, or the member's TPAF account has not expired due to the provisions of N.J.S.A. 18A:66-8. A member who transfers service under this provision shall receive credit for the salaries earned in both the TPAF and PERS during the period of concurrent service.

iii. The account has expired; that is, it has been more than two years from the date of the last contribution and the member is not vested, nor has the member's account remained active due to the provisions of N.J.S.A. 43:15A-8.

6. A data sheet shall be created for the member's new account that will indicate an interfund transfer from the member's previous retirement system and the service credit transferred into the new membership account.

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

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

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

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

As amended, R.1979 d.399, effective October 9, 1979.

See: 11 N.J.R. 411(a), 11 N.J.R. 596(b).

As amended, R.1983 d.7, effective February 7, 1983.

See: 14 N.J.R. 1150(a), 15 N.J.R. 162(d).

Subsection 17:2-7.2 deleted, combined with 7.1, language added.

Amended by R.1988 d.141, effective April 4, 1988.

See: 19 N.J.R. 2386(a), 20 N.J.R. 812(a).

Substantially amended (a)5 and (d).

Amended by R.2000 d.26, effective January 18, 2000.

See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

Rewrote the section.

Amended by R.2001 d.258, effective August 6, 2001.

See: 33 N.J.R. 1341(a), 33 N.J.R. 2677(a).

Rewrote (b)(5)(ii); in (b)(5)(iii), added "the member is not vested, nor has the member's account remained active due to the provisions of N.J.S.A. 43:15A-8" and deleted "there was not enough service credit to be eligible for a deferred retirement".

Amended by R.2002 d.266, effective August 19, 2002.

See: 34 N.J.R. 1366(a), 34 N.J.R. 2972(a).

In (b)5ii, substituted "c.341" for "c. 6" throughout and substituted "three" for "two".

Cross References

Interfund transfers, accumulated interest, see N.J.A.C. 17:1-12.5.

Case Notes

Teacher not entitled to reverse withdrawal from pension fund in order to obtain interfund transfer of service time. *Long v. Public Employees' Retirement System Board of Trustees*, 93 N.J.A.R.2d (TYP) 112.

17:2-7.2 Intrafund transfers; State-administered retirement systems

(a) Members who leave one public employer and take a position with another public employer covered by the same pension system are immediately eligible to transfer their membership to their new employers, as long as the following conditions are met:

1. The member has not withdrawn their contributions;
2. The account has not expired; that is, it has not been more than two years between the date of the last contribution received from the old employer and the starting date of contributions with the new employer or there was enough service credit to be eligible for a deferred retirement; and

3. The account has not been canceled due to Board of Trustees action. It is the responsibility of the employer to establish the employee's status. For accounts that are withdrawn, expired or canceled, an enrollment application is needed, and the standard enrollment rules are again in effect;

(b) To transfer the member's account to the new employer, the new employer should file a Report of Transfer with the Division of Pensions and Benefits within 10 working days of the date employment begins. If more than one year elapses between the date that the member was required to contribute to the retirement system and the date contributions were first certified, the employer shall be assessed a late enrollment employer liability penalty plus delayed appropriation costs.

New Rule, R.2000 d.26, effective January 18, 2000.
See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).