

**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.

**CHAPTER TABLE OF CONTENTS**

**SUBCHAPTER 1. ADMINISTRATION**

- 17:2-1.1 Board meetings
- 17:2-1.2 Fiscal year
- 17:2-1.3 Officers and committees
- 17:2-1.4 Election of member-trustee
- 17:2-1.5 Certifying Officer (employer)
- 17:2-1.6 Records
- 17:2-1.7 Appeal from Board decisions
- 17:2-1.8 Suspension of pension checks
- 17:2-1.9 Verified discrepancy in member's age
- 17:2-1.10 (Reserved)
- 17:2-1.11 Proof of age
- 17:2-1.12 State employees; biweekly salaries
- 17:2-1.13 Nearest attained age; enrollment; retirement

**SUBCHAPTER 2. ENROLLMENT**

- 17:2-2.1 Social Security coverage
- 17:2-2.2 Multiple employments
- 17:2-2.3 Ineligible persons
- 17:2-2.4 Enrollment date
- 17:2-2.5 Optional enrollment
- 17:2-2.6 Enrollment eligibility of professors and instructors employed on a temporary, provisional or adjunct basis by public institutions of higher education
- 17:2-2.7 Enrollment following deferred retirement

**SUBCHAPTER 3. INSURANCE AND DEATH BENEFITS**

- 17:2-3.1 Compulsory and optional enrollment
- 17:2-3.2 Computation of insurance benefits
- 17:2-3.3 Contributory insurance rate
- 17:2-3.4 New enrollments and transfers; contributory insurance premiums
- 17:2-3.5 Leave for illness; life insurance coverage
- 17:2-3.6 Survivor benefits
- 17:2-3.7 Withdrawal application; contributory insurance
- 17:2-3.8 Withdrawal and return; contributory insurance
- 17:2-3.9 Retired life insurance coverage
- 17:2-3.10 Contributory insurance premiums; leave of absence
- 17:2-3.11 Ten-month members
- 17:2-3.12 Beneficiary designation; pension contributions
- 17:2-3.13 Benefits payable under P.L. 1984, c.96, as amended by P.L. 1995, c.221

**SUBCHAPTER 4. MEMBERSHIP**

- 17:2-4.1 Creditable compensation
- 17:2-4.2 Leave with pay
- 17:2-4.3 School year members; 10 and 12 months
- 17:2-4.4 Loan tolerance
- 17:2-4.5 (Reserved)
- 17:2-4.6 Minimum adjustment
- 17:2-4.7 Part-time hourly, on-call or per diem salary
- 17:2-4.8 Military leave prior to August 1, 1974; employer contributions
- 17:2-4.9 Eligibility for loan
- 17:2-4.10 Waiver of retirement benefits upon withdrawal
- 17:2-4.11 Termination; withdrawal
- 17:2-4.12 Deductions
- 17:2-4.13 Active employment; membership requirement
- 17:2-4.14 Continuance of membership; transfer
- 17:2-4.15 Ineligible service
- 17:2-4.16 Creditable service; Law Enforcement Officers

**SUBCHAPTER 5. PURCHASES AND ELIGIBLE SERVICE**

- 17:2-5.1 Eligibility for purchase
- 17:2-5.2 New enrollment purchase or rate adjustment
- 17:2-5.3 Reestablishing military leave credit
- 17:2-5.4 Compulsory contributions (back deductions)
- 17:2-5.5 Optional purchases of eligible service
- 17:2-5.6 Methods of payment
- 17:2-5.7 (Reserved)
- 17:2-5.8 Per diem credit
- 17:2-5.9 through 17:2-5.10 (Reserved)
- 17:2-5.11 Service ineligible for purchase
- 17:2-5.12 Correction of errors
- 17:2-5.13 Lump-sum purchases

**SUBCHAPTER 6. RETIREMENT**

- 17:2-6.1 Applications
- 17:2-6.2 Effective date
- 17:2-6.3 Effective dates; change
- 17:2-6.4 Outstanding loan
- 17:2-6.5 Willful negligence
- 17:2-6.6 Retirement credit
- 17:2-6.7 Disability determination
- 17:2-6.8 Option selection
- 17:2-6.9 Employer and employee notices
- 17:2-6.10 Involuntary disability application
- 17:2-6.11 Early retirement; reduction
- 17:2-6.12 Service retirement; eligibility
- 17:2-6.13 Disability retiree; annual medical examinations
- 17:2-6.14 Disability retiree; annual report (employment, earnings, test and adjustment)
- 17:2-6.15 Disability retirements; filing after more than two years' discontinuance of service

17:2-6.16	Compulsory retirement; Law Enforcement Officers (LEO)
17:2-6.17	Approved allowance
17:2-6.18	Option "1" benefit
17:2-6.19	(Reserved)
17:2-6.20	Final compensation; 10 and 12-month members reported monthly
17:2-6.21	Determination of last year's salary; veterans paid on a monthly basis
17:2-6.22	Waiver
17:2-6.23	(Reserved)
17:2-6.24	Final compensation; biweekly salary computation for employees reported on a biweekly basis
17:2-6.25	Determination of last year's salary; veterans reported on a biweekly basis
17:2-6.26	Medical examination; physician
17:2-6.27	Work-related travel; accidental disability retirement and accidental death benefit coverage

## SUBCHAPTER 7. TRANSFERS

17:2-7.1	Honorable service; interfund transfers; State-administered retirement systems
17:2-7.2	Intrafund transfers; State-administered retirement systems

## 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, with the exception of the actuarial valuation, which shall be prepared on the basis of the membership payroll status of all account results as of March 31 of each year.

### 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 election of the Board of Trustee members will include the use of nominating petitions.

1. This will entail the separate distribution of at least two forms for all active member employees of the State or of the counties or municipalities, as the case may be.

2. Public agencies will vote on the basis of whether they are State, county or municipal instrumentalities.

3. The first will be an election notice setting forth the rules for filing nominating petitions and other pertinent data.

4. The second will be ballot, containing the names of the candidates who have been properly nominated as well as the rules governing the balloting. If only one candidate is nominated, the second form will be a notice containing the name of the candidate and an indication that the candidate is deemed elected to the position without balloting because there was only one nominee.

5. Petition forms will be available at the office of the Public Employees' Retirement System.

6. Biographical information on the candidates will be distributed to the certifying officer of each employing agency at the time of distribution of ballots or notices of election without balloting.

(b) Rules concerning election notice and petition are as follows:

1. At least four months prior to the expiration of the term of each elected trustee, a notice will be prepared and distributed to the certifying agents of the State or of the counties or municipalities, as the case may be, advising them of the position to be voted upon (position and term), as well as the name and expiration of term of office of the present trustee. The names of all present trustee members of the Board of Trustees and the expiration of their terms will also be shown. The notice will also inform the members that petition forms are available at the office of the retirement system. The election notice will specify the time and place of the drawing by lot for position on the ballot. All petitioners will be invited to attend on the given date.

2. The petition will indicate to the members that the member to be nominated by this petition must be a member of the Public Employee's Retirement System and either a State, county or municipal employee, according to the position being voted upon. (State employee members may petition only for State employee candidates; county employee members only for county employee candidates; and municipal employee members only for municipal employee candidates.

3. The instructions will indicate that at least 500 eligible State employee members, county members or municipal members, as the case may be, must sign the petition in order for a candidate's name to be placed on the ballot.

4. Petitioners must indicate their employing agencies, in addition to printing and signing their names on the petition.

5. A member may sign a petition for only one candidate.

6. The candidate named on a petition must sign the petition in a designated space indicating that he is willing to be a candidate.

7. The instructions will indicate the closing date for the filing of such petitions and also indicate the fact that a ballot bearing the names of all candidates so nominated will be forwarded for each eligible voter.

8. The names of all properly nominated candidates will appear on the ballot in the order drawn by lot. The employing agency will also be shown after the name of each candidate.

9. If only one candidate is nominated for a position, the candidate is deemed elected to the position without balloting.

(c) Rules concerning the ballot are as follows:

1. For each eligible voter there will be forwarded to the certifying agent, a ballot addressed by name.

2. The closing date of the election will be indicated.

3. The name of each candidate nominated by proper petition filed within the prescribed time will appear on the ballot.

4. Instructions supplied to the voter for the proper casting of the ballot (marking of the ballot, returning of such ballot through the postage paid return envelope and notice to sign such envelope) will be shown on the reverse side of the ballot or on a separate sheet.

5. The instructions will also indicate that the candidate receiving a plurality of the legal votes cast will be declared elected to the position.

(d) Rules concerning the election notice are as follows:

1. Election notices will be forwarded in bulk and in the appropriate number to the certifying agent or appropriate fiscal officer of such employing agency, together with instructions as to who are to receive the same.

2. A receipt and report will also be forwarded to each certifying agent or appropriate fiscal officer; such form is to be returned to this office and will indicate:

i. Receipt of the forwardings by the certifying agent or appropriate fiscal officer;

ii. The extent to which the certifying agent or appropriate fiscal officer has distributed the election notices.

(e) Rules concerning ballot distribution are as follows:

1. The ballots, each bearing the name and register number of an eligible voter, will be forwarded to the payroll agents, together with instructions governing distribution.

2. State, county and municipal employee members' ballots and return envelopes will be differentiated by colored forms or by some other symbol.

3. A receipt and report form will also be forwarded to each certifying agent or appropriate fiscal officer. Such form will indicate:

i. Receipt of the forwardings by the certifying agent or appropriate fiscal officer;

ii. The extent or distribution of election ballots;

iii. Return of undelivered ballots and reason for same.

4. The returned ballot-bearing envelopes are to be examined for validity. A record will be maintained to identifying the registered numbers of the members who have voted. The sealed ballots will be deposited in a

locked container. Immediately prior to the counting of the ballots, the information identifying the individual voters will be separated from the still sealed ballots in the presence of the election judges.

(f) Rules concerning election judges are as follows:

1. An election board consisting of a judge and two tellers to examine the returned ballots and to tabulate the votes cast. The counting of these ballots will be accomplished by the use of a machine, the normal design of which is for the purpose of counting paper stock. The Board will have the power to eliminate any ballot which is not properly cast. The Board will report on the results of the election to the Board of Trustees.

2. The candidates whose names are printed on the ballots will be informed as to the method and the date of counting the ballots, and will be invited to be present or to be represented at the counting of the ballots.

(g) Rules concerning recount are as follows:

1. Any candidate who shall have reason to believe that an error has been made in counting the vote or declaring the vote of the election may within 20 days of the certification of the results of the election, request, in writing, that the Board of Trustees shall, at its next regular meeting or at a special meeting, consider the request and determine whether a recount shall be held. The Board shall notify all candidates of its decision within 10 days thereafter. At such meeting, any member of the Board who is a candidate on the contested ballot shall not participate in the Board's deliberation or decision on this request.

2. If a candidate for a position on the Board requests a recount within the prescribed time, this request may be granted if a recount could possibly affect the result of the election. All ballots received will then be recounted and the recount will be supervised by the Election Board. The Board will certify the result of the recount to the Board of Trustees. If a recount is not requested within 20 days the ballots may be destroyed.

(h) Rules concerning biographical information on candidates are as follows:

1. An informational sheet of biographical information on each candidate shall be prepared by the Division of Pensions. The information to be included on each candidate shall be approved by the candidate. The informational sheet shall be approved by the board.

2. Copies of the informational sheet shall be distributed to the certifying officer of each employing agency at the time of distribution of ballots or notices of election without balloting.

3. The informational sheets shall be posted at appropriate places throughout the workplace of each employing agency or be otherwise distributed so that the members of the retirement system will have reasonable opportunity to read and consider the biographical information on the candidates.

(i) If there are at least three candidates in an election for member-trustee and the victorious candidate dies or declines to serve as such member-trustee prior to the beginning of his or her term as trustee, the candidate who obtained the next highest number of votes in that election (that is, the first runner-up) may be selected, at the Board's discretion, to fill the Board vacancy caused by the death or inability or unwillingness to serve of the successful candidate. If the Board selects the first runner-up in such election and that person is unable or unwilling to accept the position, then the Board may, in its discretion, select the candidate who obtained the next highest number of votes in that election or may conduct a new election to fill the Board vacancy. For purposes of this provision, a member-trustee's term begins upon the taking of the oath of office.

(j) Only active members of the Public Employees' Retirement System may vote in the election of member-trustees of the Board of Trustees of the Public Employees' Retirement System.

Amended by R.1973 d.118, effective April 30, 1973.

See: 5 N.J.R. 124(b), 5 N.J.R. 204(a).

Amended by R.1985 d.213, effective July 9, 1976.

See: 8 N.J.R. 260(a), 8 N.J.R. 407(c).

Amended by R.1985 d.590, effective November 18, 1985.

See: 17 N.J.R. 2238(a), 17 N.J.R. 2784(a).

(a)4 added text: "If only one ... only one nominee."; and added (b)9.

Amended by R.1987 d.157, effective April 6, 1987.

See: 19 N.J.R. 52(a), 19 N.J.R. 565(a).

Substantially amended.

Amended by R.1993, d.78, effective February 16, 1993.

See: 24 N.J.R. 3690(a), 25 N.J.R. 711(a).

Added new (i).

Amended by R.1994 d.259, effective June 6, 1994.

See: 25 N.J.R. 5113(a), 26 N.J.R. 2299(d).

#### Case Notes

Request for recount in election of trustees of Public Employees' Retirement System was properly denied where there was no evidence of miscalculations or serious errors in counting process. *McLaughlin v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 181.

Candidate was ineligible to run for reelection to PERS Board of Trustees; prior disciplinary suspension. *Buriani-DeSantis v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 63.

#### 17:2-1.5 Certifying Officer (employer)

(a) The Chief Fiscal Officer or other officer duly designated via resolution of each county, municipality or public agency and the personnel officer of the Division, Bureau or Institution of the State locations shall serve as the Certifying Officer for that unit.

See: 14 N.J.R. 200(b), 14 N.J.R. 1164(b).  
As amended, R.1983 d.7, effective February 7, 1983.  
See: 14 N.J.R. 1150(a), 15 N.J.R. 162(d).

Rate change from one-half to three-quarters July 1, 1981.  
As amended, R.1984 d.190, effective May 21, 1984.  
See: 16 N.J.R. 358(a), 16 N.J.R. 1284(a).

Contribution rate changed from  $\frac{3}{4}$  to  $\frac{5}{10}$  of one percent, effective April 1, 1984.

Amended by R.1987 d.510, effective December 7, 1987.

See: 19 N.J.R. 1636(a), 19 N.J.R. 2373(c).

Contribution rate changed from 6/10 to 55/100 of one percent, effective January 1, 1988.

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

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

Substituted a reference to one-half of one percent for a reference to fifty-five one-hundredths of one percent, and substituted a reference to 1999 for a reference to 1988.

### 17:2-3.4 New enrollments and transfers; contributory insurance premiums

For new enrollees and transferees, contributory insurance premiums will be due from the date insurance is effective as shown on the certification, to the date payroll deductions are certified to begin. In no case will the retroactive premiums for more than 15 months be charged.

### 17:2-3.5 Leave for illness; life insurance coverage

(a) Life insurance coverage during a leave of absence due to illness shall apply only to the personal illness of the member.

(b) A leave of absence on account of another person's illness will not entitle the member to continued life insurance coverage.

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), substituted a reference to life insurance coverage for a reference to coverage; and in (b), substituted a reference to life insurance coverage for a reference to insurance coverage.

#### Case Notes

Beneficiary's claim for death benefit coverage denied; deceased not on approved leave of absence at time of death. *Davis v. Public Employees' Retirement System*, 95 N.J.A.R.2d (TYP) 1.

### 17:2-3.6 Survivor benefits

(a) Payment of benefits to eligible survivors shall become effective on the first of the month subsequent to the member's death and shall terminate on the first of the month subsequent to the date in which the survivor no longer qualifies for such benefits.

(b) In the instance of an active member who dies in the performance of duty (accidental death), the initial pension payment will be for the month following the month in which the member died, and the last payment will cover the month the survivor dies or ceases to qualify for the continuance of benefits.

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).

In (a), substituted "subsequent to" for "of" following "month", and substituted "on the first of the month subsequent to the date" for "as of the month" following "terminate"; and in (b), deleted "immediately preceding the month" following "cover the month".

### 17:2-3.7 Withdrawal application; contributory insurance

A properly executed contributory insurance withdrawal application must be in the possession of the Retirement System before termination of the contributory coverage can be effected. Such withdrawal application cannot be retroactive.

Correction: The words "Retirement System" were inadvertently omitted from text.

See: 18 N.J.R. 2391(c).

### 17:2-3.8 Withdrawal and return; contributory insurance

Withdrawal from contributory insurance coverage shall apply only to the membership account under which the cancellation was exercised. Any person who has canceled his contributory insurance coverage and withdraws from membership in the System shall, upon his or her subsequent re-enrollment in the System, be subject to the provisions of N.J.A.C. 17:2-3.1.

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

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

Neutralized a gender reference.

### 17:2-3.9 Retired life insurance coverage

If a member's date of PERS enrollment was on or after July 1, 1971, noncontributory life insurance shall be payable after the death of a retired member, only if the member established 10 or more years of pension membership credit at the time of retirement, or retired on a disability retirement. The life insurance shall equal 3/16 of the retiree's last 10 months of salary if formerly employed on a 10-month basis, or 12 months of salary if formerly employed on a 12-month basis. No premium payments are required to continue the 3/16 coverage after retirement. Contributory group life insurance coverage ceases at retirement.

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

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

### 17:2-3.10 Contributory insurance premiums; leave of absence

(a) Contributory insurance coverage will be in effect for up to two years while a member is on an official leave of absence for the personal illness of the member without premiums paid by the member.

(b) Contributory insurance coverage will be in effect while a member is on an official leave of absence without pay for the following reasons, provided that insurance premiums are paid in advance by the member. It is the member's responsibility to make arrangements directly with the Division to continue these premium payments:

1. Up to one year to fulfill a residency requirement for an advanced degree; or as a full-time student at an institution of higher education; and
2. Up to 93 days on an official leave for any other reason.

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.

**17:2-3.11 Ten month members**

A member employed on other than a 12-month contract year will continue to be insured during the summer vacation period provided a bona fide employee-employer relationship exists during this period.

**Case Notes**

Part-time adjunct professor who died during summer hiatus was still active member of Public Employees' Retirement System. Estate of Hagel v. Board of Trustees, Public Employees' Retirement System, 226 N.J.Super. 182, 543 A.2d 1010 (A.D.1988).

**17:2-3.12 Beneficiary designation; pension contributions**

(a) When a member establishes multiple status by becoming employed by one or more additional employers in an eligible position or positions and files an enrollment application, the beneficiaries designated on the most recently submitted enrollment application supersede any older designations of beneficiaries on file with the Division of Pensions and Benefits.

(b) All beneficiaries must be specifically named. The designation "children," unless otherwise qualified by the member shall mean all individuals, including natural or adopted children, entitled to take from the member by the New Jersey laws of intestate succession, N.J.S.A. 3B:1-1 et seq., and excludes all persons who are only stepchildren, foster children, grandchildren or any more remote descendants.

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

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

Amended by R.1983 d.6, effective February 7, 1983.

See: 14 N.J.R. 1151(a), 15 N.J.R. 163(a).

Clarification of "children" as beneficiaries.

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**

Failure to fill out correct change of beneficiary form did not prevent payment of accumulated pension funds to decedent's intended beneficiary. Estate of Phyllis Braginton v. Board of Trustees of the Public Employees' Retirement System. 92 N.J.A.R.2d (TYP) 135.

**17:2-3.13 Benefits payable under P.L. 1984, c.96, as amended by P.L. 1995, c.221**

(a) For the purposes of P.L. 1984, c.96, section 1, as amended by P.L. 1995, c.221, section 2, (N.J.S.A. 43:15A-50), the person designated as the beneficiary of an optional settlement on the retirement application may request that a retirement become effective and that a selection of an optional settlement be made as authorized by the law. If there is no designated beneficiary for an optional settlement, the person designated as the beneficiary to receive the return of contributions or unpaid benefits due to a retiree at the date of death may make this request. If a beneficiary requests that an optional settlement be made, the death benefits payable on behalf of the member shall be the death benefits payable on behalf of a member who dies after retirement as otherwise provided in the Public Employees' Retirement System Act, N.J.S.A. 43:15A-1 through 141 as amended and supplemented.

(b) Where a beneficiary of a member requests that a retirement take effect and that a selection of an optional settlement be made as authorized under P.L. 1984, c.96, section 2, as amended by P.L. 1995, c.221, section 1 (N.J.S.A. 43:15A-50), an additional amount of insurance, not to exceed the amount of insurance that could be converted under the group policies for noncontributory and contributory death benefits, shall be paid as claims under the group policies only if the member files an application for conversion of the insurance upon retirement as provided under N.J.S.A. 43:15A-93 and pays the initial premium for the converted insurance. The premiums paid for the converted insurance shall be retained by the carrier and be applied to the premiums payable by the State and the retirement system for benefits provided under the group policies.

New Rule, R.1998 d.501, effective November 2, 1998.

See: 30 N.J.R. 1917(a), 30 N.J.R. 3970(a).

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), substituted a reference to N.J.S.A. 43:15A-50 for a reference to N.J.S.A. 18A:66-47.

**SUBCHAPTER 4. MEMBERSHIP****17:2-4.1 Creditable compensation**

(a) The compensation of a member subject to pension and group life insurance contributions and creditable for retirement and death benefits in the system shall be limited to base salary, and shall not include extra compensation. For purposes of this section:

1. "Base salary" means the annual compensation of a member, plus the value of maintenance, if applicable, in accordance with contracts, ordinances, resolutions or other established salary policies of the member's employer for all employees in the same position, or all employees covered by the same collective bargaining agreement, which is paid in regular, periodic installments in accordance with the payroll cycle of the employer; and

2. "Extra compensation" means individual salary adjustments which are granted primarily in anticipation of a member's retirement or as additional remuneration for performing temporary duties beyond the regular workday or work year. Forms of compensation that have been identified as extra compensation include, but are not limited to:

i. Overtime;

ii. Pay for extra work, duty or service beyond the normal workday, work year (for 10 month employees) or normal duty assignment;

iii. Bonuses;

Road construction worker who inhaled fumes from new blacktop mixture was not injured as result of traumatic event entitling him to accidental disability retirement benefits. *Beverly v. Public Employee's Retirement System*, 92 N.J.A.R.2d (TYP) 41.

Fall from ground level cannot constitute great rush of force necessary to find traumatic event entitling claimant to accidental disability retirement benefits. *Keaton v. Public Employees' Retirement System*, 92 N.J.A.R.2d (TYP) 37.

Hospital attendant's injury while assisting patient from bed to chair did not result from traumatic event qualifying her for accidental disability retirement benefits. *Siniscalchi v. Board of Trustees of the Public Employees' Retirement System*, 92 N.J.A.R.2d (TYP) 30.

Supervisor's transfer threats did not constitute a traumatic event qualifying employee for accidental disability retirement benefits. *Fay v. Board of Trustees of the Public Employees' Retirement System*, 92 N.J.A.R.2d (TYP) 27.

Maintenance worker's fall from three foot scaffolding was not traumatic event entitling him to accidental disability retirement benefits. *Minkus v. Board of Trustees of the Public Employees' Retirement System*, 92 N.J.A.R.2d (TYP) 19.

School crossing guard's fall on sidewalk was not traumatic event in course of employment entitling her to accidental disability retirement benefits. *Osinga v. Board of Trustees, Public Employees' Retirement System*, 92 N.J.A.R.2d (TYP) 16.

#### 17:2-6.8 Option selection

If an applicant for an accidental disability retirement benefit is rejected for an accidental disability benefit but is approved by the Board for retirement, in accordance with N.J.A.C. 17:2-6.7, the applicant will be permitted within 30 days following Board approval of the retirement, to amend the option selection which the applicant made on the original accidental disability retirement application.

As amended, R.1971 d.71, effective May 18, 1971.  
See: 3 N.J.R. 50(a), 3 N.J.R. 117(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.

#### 17:2-6.9 Employer and employee notices

If an applicant for accidental disability retirement is found to be physically or mentally incapacitated for the performance of duty but is rejected for accidental disability retirement because the Board finds that the disability was not a direct result of a traumatic event occurring during and as a result of the performance of the applicant's regular or assigned duties and, if the applicant does not meet the minimum statutory requirements for any other type of retirement allowance, the System will notify both the member and the member's employer that the member was found to be physically or mentally incapacitated for the continued performance of duty, as was previously certified to the System.

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, and deleted "by both the employee and his employer" and deleted a former second sentence at the end.

#### 17:2-6.10 Involuntary disability application

(a) If an application for an accidental disability retirement benefit or for an ordinary disability retirement benefit is filed by an employer for one of their employees, the member will be promptly notified by letter that:

1. The member's employer has properly initiated a disability application signed by the Certifying Officer or other designated officer of the employer, on the member's behalf;

2. The member's employer has submitted a written statement as to the grounds for the employer's request for member's involuntary disability retirement and all available medical documentation;

3. The member has a period of 30 days to contest his or her involuntary retirement before the Board acts on the employer's application;

4. The member will be required to appear for an examination before a physician designated to conduct such an examination for the retirement system;

5. In the event the Board finds that the member is totally and permanently incapacitated for the performance of duty, the member shall be granted the maximum retirement allowance, (without option) payable under the statute, if the member does not file a completed "Application for Disability Retirement Allowance" setting forth the type of allowance the member desires, before the retirement goes into effect; and

6. In the event the Board finds that the member is not totally and permanently incapacitated for the performance of duty, the employer's application shall be disallowed and the employer shall be informed that the member should be returned to duty.

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), neutralized gender references throughout, rewrote 1 and 2, deleted a former 3, and recodified former 4 through 7 as 3 through 6.

#### 17:2-6.11 Early retirement; reduction

(a) Retirement with 25 or more years of credited service before the first of the month in which a member attains age 60 shall be classified as "early" retirement.

(b) The statutory reduction of one quarter of one percent applies to each month prior to the month in which the member attains age 55 and for the month in which the member attains age 55 if the member's 55th birthday occurs after the 15th day of the month.

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.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**

Suspended employee who retired after completing court-ordered pretrial intervention program was not entitled to early retirement benefits. *Gulics & Simeone v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 228.

**17:2-6.12 Service retirement; eligibility**

A member becomes eligible for "Service" retirement on the 1st 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-47a, and requests that date.

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

Neutralized a gender reference in the first sentence, and added a second sentence.

**Case Notes**

Denial of petitioner's request for additional four years of creditable service was appropriate. *Alcaro v. Division of Pensions, the Alternate Benefit Program*, 94 N.J.A.R.2d (TYP) 124.

**17:2-6.13 Disability retiree; annual medical examinations**

(a) All disability retirees may be required to undergo a medical examination each year for at least five years or for good cause thereafter by a physician designated by the System, unless such examination requirement has been waived by the Board. Good cause means the receipt by the Board of creditable information that a member who is receiving a disability retirement allowance is no longer disabled.

(b) Failure on the part of a retiree to submit to the required medical examination shall result in the automatic suspension of the retiree's retirement allowance until the retiree submits to a medical examination.

Amended by R.1998 d.322, effective July 6, 1998.  
See: 30 N.J.R. 1026(a), 30 N.J.R. 2514(a).

In (a), deleted "under age 60," following "retirees" and substituted "at least five years or for good cause thereafter" for "a maximum period of five years" in the first sentence, and added a second sentence.  
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 "as of the anniversary date of their retirement" following "System" in the first sentence; and in (b), neutralized gender references throughout.

**Case Notes**

Township not required to reinstate formerly disabled employee who resigned before applying for disability benefits. *Township of Dover v. Board of Trustees, Public Employees' Retirement System*, 92 N.J.A.R.2d (TYP) 83.

**17:2-6.14 Disability retiree; annual report (employment, earnings, test and adjustment)**

(a) All disability retirees shall be required to file a report with the System which shall include copies of the retiree's IRS 1040 forms and W-2 forms and any other proofs of employment requested of a specific retiree indicating the type of employment they are engaged in, if any, and the gross earned income realized therefrom as of December 31 of each year.

1. Such report shall be filed with the System before the following April 30.

2. Failure on the part of the retiree to file a completed report with the System before April 30 shall result in the presentation of the retiree's case to the PERS Board of Trustees, who may impose penalties or suspend the retiree's entire retirement allowance for the period the report is in default.

(b) If a retiree reports employment and earnings, then the following tests shall be made by the System to ascertain:

1. If the retiree is engaged in a position subject to coverage by the System, the retirement allowance shall be canceled and the retiree shall be reenrolled in the System pursuant to N.J.S.A. 43:15A-44, effective as of the date of the retiree's appointment to such position. Any disability retirement benefits received after this date of appointment shall be refunded to the System.

2. If the retiree is engaged in employment and the gross earned income for the preceding calendar year exceeds the difference between the pension and the salary the retiree would have been receiving had the retiree continued to work for the former employer (normal increment steps and salary range revisions will be considered but no promotional assumptions will be made) an appropriate adjustment to the pension for the period will be made by such difference.

3. If it is found, on or after April 30, that gross earned income for the calendar year exceeded the difference between the pension and the salary of the retiree's former position and if the retiree does not refund the excess pension to the System within 30 days of notification of the difference, the pension portion of the retirement allowance shall be reduced, dollar for dollar, by the excess earnings. The Board of Trustees shall determine the length of time that the retiree's pension allowance will be reduced.

Amended by R.1998 d.323, effective July 6, 1998.  
See: 30 N.J.R. 1026(b), 30 N.J.R. 2514(b).

Rewrote the section.

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)3.

**17:2-6.15 Disability retiree; filing after more than two years' discontinuance of service**

(a) Following the filing of a disability retirement application, a vested member, who has not withdrawn his or her contributions from the retirement system, and has discontinued service for more than two consecutive years, and who was otherwise eligible for disability retirement at the time service was discontinued, shall be approved to receive disability retirement benefits by the Board of Trustees, if: