

Rewrote (b)3.

17:2-6.15 Disability retirements; 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(a) Following the filing of a disability retirement application, a vested member, who has not withdrawn his or her contributions from the retirement system, and has discontinued service for more than two consecutive years, and who was otherwise eligible for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:

1. The applicant demonstrates to the satisfaction of the Board of Trustees that he or she was physically or mentally incapacitated for the performance of duty at the time service was discontinued and continues to be so incapacitated, with the same disability or disabilities, at the time of filing; and

2. The applicant factually demonstrates to the satisfaction of the Board of Trustees that service was discontinued because of the disability or disabilities.

(b) A disability retirement application that is filed under this rule may take effect, in accordance with the laws and rules applicable to effective dates for disability retirements, only on or after the date the application is filed.

(c) This rule shall be applicable to all vested members and former members whose retirements were effective prior to February 1, 1999, but disability retirements under this rule shall not be effective prior to February 1, 1999.

(d) This section shall be effective until December 31, 2003, unless such effectiveness is extended through amendment of this subsection.

New Rule, R.1999 d.36, effective February 1, 1999.
See: 30 N.J.R. 3375(b), 31 N.J.R. 458(a).

17:2-6.16 Compulsory retirement; Law Enforcement Officers (LEO)

(a) Members classified as "Law Enforcement Officers" shall be retired automatically by the Board as of the compulsory retirement date established pursuant to N.J.S.A. 43:15A-99.

(b) Should a member classified as a Law Enforcement Officer fail to file an application with the Division before the member's compulsory retirement date, the member shall be granted the maximum allowance payable on the member's account; however, no retirement checks will be disbursed until the member files the required application.

(c) If an application is not filed with the Division before a period of 30 days has elapsed after the Board has acted on the member's retirement, the member shall not be eligible to exercise any of the available retirement survivorship options and the member's retirement on maximum allowance shall stand as approved.

(d) When such a member files an application with the Division, the member shall be eligible to receive retirement benefits for the months that have elapsed since the date of the member's compulsory retirement, provided satisfactory evidence is received to show that the member terminated employment as of the member's compulsory retirement date.

(e) No retirement benefits shall be paid for any period the member continued in service beyond the compulsory retirement date, nor shall the member receive any credit for retirement purposes for salary received or service rendered beyond the compulsory retirement date.

(f) An LEO member who is also enrolled as a non-LEO member cannot continue the LEO membership or employment in the LEO capacity beyond age 65 should the member continue his or her membership on the basis of the member's non-LEO position pursuant to N.J.S.A. 43:15A-99.

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).

Neutralized gender references and substituted references to the Division for references to the system throughout; and in (f), added N.J.S.A. reference.

17:2-6.17 Approved allowance

When a retirement allowance becomes effective, the type of retirement benefit and option elected shall stand as approved.

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

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

Substituted "retirement benefit and option" for "allowance (maximum or option)".

17:2-6.18 Option "1" benefit

The reserve established under the provisions of Option "1" shall be a form of reducing term insurance, as the reserve shall reduce in value by the amount of the retiree's regular monthly allowance, whether received or not, for each month that the retiree survives after the effective date of retirement.

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 regular monthly allowance for a reference to monthly allowance, and neutralized gender references throughout.

17:2-6.19 (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 "Maximum allowance prescribed".

17:2-6.20 Final compensation; 10 and 12-month members reported monthly

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

monthly basis under a 10-month contract, use the creditable salaries upon which contributions were made to the System for the member's final 30 months, or the highest three fiscal years of pensionable service, including any retroactive salary payments that are attributable to the covered period and paid as part of a salary agreement with a group of employees.

(b) In order to determine the final compensation (three-year average) for benefits on a member reported on a monthly basis under a 12-month contract, use the creditable salaries upon which contributions were made to the system for the member's last 36 months or the highest three fiscal years of pensionable service, including any retroactive salary payments that are attributable to the covered period and paid as part of a salary agreement with a group of employees.

(c) If a member was reported on any combination of ten and 12-month contract years in such three-year period, the final average compensation shall be determined on a proportional basis.

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

Full amount of pension; requiring former employer to submit retroactive payment into retirement system reserve fund. *Muzzarelli v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 214.

17:2-6.21 Determination of last year's salary; veterans paid on a monthly basis

(a) In order to determine the last year's salary for a veteran with 35 or more years of creditable service, age 55 or older, reported on a monthly basis under a 10-month contract, use the creditable salaries upon which contributions were made in the member's final 10 months of pensionable service preceding retirement, including any retroactive salary payments that are attributable to the covered period and paid as part of a salary agreement with a group of employees.

(b) In order to determine the last year's salary for a veteran with 35 or more years of creditable service, age 55 or older, reported on a monthly basis under a 12-month contract basis, use the member's creditable salaries upon which contributions were made in the member's final 12 months of pensionable service preceding retirement, including any retroactive salary payments that are attributable to the covered period and paid as part of a salary agreement with a group of employees.

(c) In order to determine the last year's salary for a veteran with 20 or more years of creditable service, age 60 or older, or a veteran with 25 or more years of creditable service, age 55 or older, reported on a monthly basis under a 10-month contract, use the creditable salaries upon which contributions were made in the member's final 10 months of pensionable service preceding retirement or in the consecutive 10-month period in which the member achieved the greatest earnings, including any retroactive salary payments that are attributable to the covered period and paid as part of a salary agreement with a group of employees.

(d) In order to determine the last year's salary for a veteran with 20 or more years of creditable service, age 60 or older, or a veteran with 25 or more years of creditable service, age 55 or older, reported on a monthly basis under a 12-month contract, use the member's creditable salaries upon which contributions were made in the member's final 12 months of pensionable service preceding retirement, or in the consecutive 12-month period in which the member achieved the greatest earnings, including any retroactive salary payments that are attributable to the covered period and paid as part of a salary agreement with a group of employees.

(e) In order to determine the last year's salary for a veteran reported on any combination of 10 and 12-month contract years in such months, the last year's salary shall be determined on a proportional basis.

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.
Amended by R.2002 d.269, effective August 19, 2002.
See: 34 N.J.R. 1365(a), 34 N.J.R. 2971(b).

In (a) and (b), substituted "55" for "60"; in (c) and (d), substituted "60" for "62" and inserted "or a veteran with 25 or more years of creditable service, age 55 or older," preceding "reported"; in (e), substituted "In order to determine the last year's salary for a veteran" for "If a member was".

17:2-6.22 Waiver

(a) If for any reason a retirement allowance or portion thereof has been waived by a retired member or beneficiary, the benefit waived shall remain in the retirement reserve fund.

(b) Such retired members or beneficiaries may cancel the waiver effective as of the first day of any month subsequent to the receipt of the notice of cancellation; however, they may not make a claim for retroactive payment of any benefits waived prior thereto.

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 retired members and beneficiaries for a reference to persons, neutralized a gender reference, and substituted a reference to retroactive payment for a reference to payment.