

**CHAPTER 3**

**TEACHERS' PENSION AND ANNUITY FUND**

**Authority**

N.J.S.A. 18A:66-56.

**Source and Effective Date**

R.2008 d.94, effective April 21, 2008.  
See: 39 N.J.R. 5058(b), 40 N.J.R. 2122(a).

**Chapter Expiration Date**

Chapter 3, Teachers' Pension and Annuity Fund, expires on April 21, 2013.

**Chapter Historical Note**

Chapter 3, Teachers' Pension and Annuity Fund, was adopted and became effective prior to September 1, 1969.

Pursuant to Executive Order No. 66(1978), Chapter 3, Teachers' Pension and Annuity Fund, was readopted as R.1983 d.175, effective May 16, 1983. See: 15 N.J.R. 526(b), 15 N.J.R. 930(c).

Pursuant to Executive Order No. 66(1978), Chapter 3, Teachers' Pension and Annuity Fund, expired on May 16, 1988.

Chapter 3, Teachers' Pension and Annuity Fund, was adopted as new rules by R.1988 d.381, effective August 15, 1988. See: 20 N.J.R. 1181(b), 20 N.J.R. 2072(b).

Pursuant to Executive Order No. 66(1978), Chapter 3, Teachers' Pension and Annuity Fund, expired on August 15, 1993.

Chapter 3, Teachers' Pension and Annuity Fund, was adopted as new rules by R.1993 d.658, effective December 20, 1993. See: 25 N.J.R. 4461(a), 25 N.J.R. 5942(a).

Pursuant to Executive Order No. 66(1978), Chapter 3, Teachers' Pension and Annuity Fund, was readopted as R.1998 d.578, effective November 13, 1998. See: 30 N.J.R. 3376(a), 30 N.J.R. 4254(a).

Chapter 3, Teachers' Pension and Annuity Fund, was readopted as R.2002 d.352, effective October 10, 2002. See: 34 N.J.R. 1997(a), 34 N.J.R. 3782(c). Chapter 3, Teachers' Pension and Annuity Fund, expired on October 10, 2007.

Chapter 3, Teachers' Pension and Annuity Fund, was adopted as new rules by R.2008 d.94, effective April 21, 2008. As a part of R.2008 d.94, Subchapter 1A, Definitions, was adopted as new rules. See: Source and Effective Date. See, also, section annotations.

**Law Review and Journal Commentaries**

Battle for state contracts: What process is due in a challenge to a state contract award? Patrick D. Kennedy & Maeve E. Cannon, 180 N.J.Law. 16 (Mag.) (Oct./Nov. 1996).

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## SUBCHAPTER 1. ADMINISTRATION

### 17:3-1.1 Board meetings

(a) The Board shall meet on the first Thursday of each month or at such time as may be deemed necessary by the Board.

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

(c) The current rules within Roberts' Rules of Order, Second Edition, as well as future amendments thereto, are adopted and incorporated herein by reference as the source to be used by the Board of the TPAF in the conduct of its monthly meetings.

As amended, R.1973 d.49, effective February 14, 1973.

See: 5 N.J.R. 20(b), 5 N.J.R. 95(b).

As amended, R.1982 d.344, effective October 18, 1982.

See: 14 N.J.R. 201(a), 14 N.J.R. 1164(c).

Change of meeting from second to first Thursday of the month.

Amended by R.1994 d.161, effective April 4, 1994.

See: 25 N.J.R. 5762(b), 26 N.J.R. 1537(d).

Amended by R.2002 d.352, effective November 4, 2002.

See: 34 N.J.R. 1997(a), 34 N.J.R. 3782(c).

In (b), substituted "chairperson" for "chairman"; in (c), deleted "effective as of April 4, 1994."

Amended by R.2008 d.94, effective April 21, 2008.

See: 39 N.J.R. 5058(b), 40 N.J.R. 2122(a).

In (a), deleted "of Trustees" following "Board"; and in (c), substituted "of the TPAF" for "of Trustees of the Teachers' Pension and Annuity Fund".

### 17:3-1.2 Fiscal year

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

Amended by R.2000 d.442, effective November 6, 2000.

See: 32 N.J.R. 2985(a), 32 N.J.R. 3996(b).

Rewrote the section.

### 17:3-1.3 Officers and committees

(a) The members of the Board shall elect a chairperson and vice chairperson from its membership for the forthcoming year at its regular meeting held in July. The members of the Board shall elect a representative to the State Investment Council pursuant to N.J.S.A. 52:18A-83. A representative to the Pension System Actuary Selection Committee, as provided for by N.J.S.A. 43:4b-1, shall be elected by the Board whenever the selection of a new actuary is needed.

(b) The chairperson of the Board shall preside at all meetings or in the absence of the chairperson, the vice chairperson shall assume the chairperson's responsibilities. In the absence of the chairperson and vice chairperson, another member selected by the majority of the members in attendance will preside for that single meeting.

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

(d) Pursuant to N.J.S.A. 18A:66-61, there shall be one standing committee which is the Finance Committee. The Committee shall be appointed at the July Board meeting by the chairperson elect for the forthcoming fiscal year. The committee shall consist of three members of who shall be elected members of the Board. The State Treasurer and the person designated to represent the Fund on the State Investment Council shall serve as members of the Finance Committee. 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 meeting.

As amended, R.1973 d.49, effective February 14, 1973.

See: 5 N.J.R. 20(b), 5 N.J.R. 95(b).

Amended by R.2002 d.352, effective November 4, 2002.

See: 34 N.J.R. 1997(a), 34 N.J.R. 3782(c).

Substituted "chairperson" for "chairman" and "July" for "June" throughout.

Amended by R.2008 d.94, effective April 21, 2008.

See: 39 N.J.R. 5058(b), 40 N.J.R. 2122(a).

Rewrote (a) and (b); rewrote (d), incorporating former (e) through (g); and deleted (h) and (i).

### 17:3-1.4 Election of member-trustee

(a) The Board shall hold an annual convention of delegates of the membership of the Fund each year for the purpose of:

(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 TPAF 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 TPAF for the period between the end of the previous contract and the employment date of the new 12-month position.

Amended by R.1989 d.359, effective July 17, 1989.  
See: 21 N.J.R. 980(a), 21 N.J.R. 2055(a).

Employees working less than a 12 month school year receive credit for a full year in Teacher's Pension and Annuity Fund.

Amended by R.1994 d.163, effective April 4, 1994.

See: 26 N.J.R. 108(b), 26 N.J.R. 1538(a).

Amended by R.1995 d.89, effective February 21, 1995.

See: 26 N.J.R. 3606(a), 27 N.J.R. 754(c).

Amended by R.2002 d.352, effective November 4, 2002.

See: 34 N.J.R. 1997(a), 34 N.J.R. 3782(c).

Rewrote the section.

Amended by R.2008 d.94, effective April 21, 2008.

See: 39 N.J.R. 5058(b), 40 N.J.R. 2122(a).

In (c), inserted the second sentence; and in (d), substituted "12-month" for "12 month" following "accepts a" and substituted "TPAF" for "Teachers' Pension and Annuity Fund" twice.

#### Case Notes

Professor employed on semester-by-semester basis did not qualify for extension of retirement system membership. *LaMastro v. Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 215.

#### 17:3-4.4 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 \$50.00, it will be written off. If the balance is equal to or greater than \$50.00, the member will be assessed.

New Rule, R.1987 d.130, effective March 16, 1987.

See: 19 N.J.R. 52(b), 19 N.J.R. 457(a).

Old rule "loan evaluation" repealed.

Amended by R.2008 d.94, effective April 21, 2008.

See: 39 N.J.R. 5058(b), 40 N.J.R. 2122(a).

Substituted "\$50.00" for "\$10.00" twice.

#### 17:3-4.5 Approved leave

When benefits are payable involving approved leaves of absence or when a purchase of credit is to be processed involving a creditable leave, a certified copy of the employer's resolution granting such approved leave must be available in file or must be confirmed before processing can be completed.

Amended by R.1973 d.49, effective February 14, 1973.

See: 5 N.J.R. 20(b), 5 N.J.R. 95(b).

#### 17:3-4.6 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.2002 d.352, effective November 4, 2002.

See: 34 N.J.R. 1997(a), 34 N.J.R. 3782(c).

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

#### 17:3-4.7 Service and salary credit: awards of back pay

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

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

(c) In no case shall service or salary credit be given if the award of back pay, before mitigation, is less than the value of the normal pension and group life insurance contributions due. If a member waives an award of back pay, then the member cannot receive service or salary credit for the period of the award.

(d) If the award or settlement is structured in such a way as to provide the member with a substantial increase of creditable salary at or near the end of the member's service, or a substantial increase in retirement benefits, the award or settlement shall be reviewed by the Board. If the Board determines that the pension benefit was part of the negotiations for the award or settlement, or if the award or settlement includes extra compensation as defined by N.J.A.C. 17:3-4.1, the Board shall determine the compensation to be used to calculate the retirement allowance and the member shall have the contributions for the salaries based on the award refunded without interest.

(e) It is the responsibility of the certifying officer to provide a letter attesting to the base salary or salaries to be used to compute pension contributions and to provide a copy

of the resolution or legal document that details the terms of the settlement.

Amended by R.1974 d.24, effective January 31, 1974.

See: 5 N.J.R. 426(d), 6 N.J.R. 124(a).

Amended by R.1981 d.140, effective June 4, 1981.

See: 13 N.J.R. 159(c), 13 N.J.R. 376(a).

(b) added.

Amended by R.1991 d.100, effective March 4, 1991.

See: 22 N.J.R. 3321(b), 23 N.J.R. 712(b).

In (b), amended method of computing back pay awards. Added (c).

Amended by R.2002 d.352, effective November 4, 2002.

See: 34 N.J.R. 1997(a), 34 N.J.R. 3782(c).

In (b), neutralized gender references.

Recodified from N.J.A.C. 17:3-6.6 and amended by R.2004 d.244, effective July 6, 2004.

See: 36 N.J.R. 920(a), 36 N.J.R. 3267(c).

Rewrote the section. Express contributions, was reserved 17:3-4.7, reserved.

Amended by R.2008 d.94, effective April 21, 2008.

See: 39 N.J.R. 5058(b), 40 N.J.R. 2122(a).

In (d), inserted "or settlement" four times, deleted "of Trustees" following "reviewed by the Board" and "the member shall have the contributions for the salaries based on the award refunded without interest, and" following "17:3-4.1" and inserted "and the member shall have the contributions for the salaries based on the award refunded without interest".

#### Case Notes

Former teacher entitled to interest on monies improperly withheld from retirement account, but not reimbursement for overpayment of state income tax. *Nangle v. Teachers' Pension and Annuity Fund*, 92 N.J.A.R.2d (TYP) 14.

#### 17:3-4.8 Military leave prior to August 1, 1974

(a) Military leave, prior to August 1, 1974, 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. 18A:66-34, shall be retained by the Fund. Such contributions shall be transferred from the Annuity Savings Fund to the Contingent Reserve Fund. Military leave contributions remitted by an employer shall be based on the employee's salary at the time the member entered military service.

(b) Payroll as referred to in (a) above, shall be interpreted to mean any public school payroll in New Jersey, not necessarily the payroll of the employer where the member was employed when the member entered military service.

As amended, R.1973 d.49, effective February 14, 1973.

See: 5 N.J.R. 20(b), 5 N.J.R. 95(b).

Amended by R.2002 d.352, effective November 4, 2002.

See: 34 N.J.R. 1997(a), 34 N.J.R. 3782(c).

In (a), inserted " , prior to August 1, 1974" following "Military leave" and neutralized gender references throughout.

#### Case Notes

Approval of W.W.II veteran status in retirement system was proper. *Usarzewicz v. Teachers' Pension and Annuity Fund*, 94 N.J.A.R.2d (TYP) 69.

#### 17:3-4.9 Eligibility for loan

Only active contributing members of the Fund 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. The loan is subject to I.R.C. §72(p) (2007) of the Internal Revenue Code.

As amended, R.1973 d.49, effective February 14, 1973.

See: 5 N.J.R. 20(b), 5 N.J.R. 95(b).

Amended by R.2002 d.352, effective November 4, 2002.

See: 34 N.J.R. 1997(a), 34 N.J.R. 3782(c).

Rewrote the section.

Amended by R.2008 d.94, effective April 21, 2008.

See: 39 N.J.R. 5058(b), 40 N.J.R. 2122(a).

Inserted the last sentence.

#### 17:3-4.10 Waiver of retirement benefits upon withdrawal

Any member, who makes application for withdrawal from the Fund, who may otherwise be eligible to make application for retirement benefits, shall be required to execute and file a statement with the Fund setting forth the benefits the member is waiving in favor of withdrawal, before the 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.2002 d.352, effective November 4, 2002.

See: 34 N.J.R. 1997(a), 34 N.J.R. 3782(c).

Rewrote the section.

#### 17:3-4.11 Termination; withdrawal

(a) Pursuant to N.J.S.A. 18A:66-34, a member may withdraw from the Fund only if the member terminates all employment.

(b) No application shall be approved, if:

1. The member is on official leave of absence and the membership is subject to continuance under N.J.S.A. 18A:66-8;

2. The member, or employer, certifies that the member's employment contract has not expired, or that the member has executed another contract to work in a position subject to TPAF 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 and there is no legal action contemplated or pending and the dismissal has been adjudged final. If the member or employer does not advise the Division that an appeal is pending and the withdrawal application is processed, the member will be required to repay the Fund the full amount of contributions with interest, before the account may be reinstated;