

17:2-4.16 Creditable service; Law Enforcement Officers

Two percent service credit for Law Enforcement Officer members is that service rendered in the capacity of a Law Enforcement Officer, for which the member has paid at the Law Enforcement Officer rate of contribution unless as otherwise provided by the statute.

Recodified from N.J.A.C. 17:2-5.10 and amended by R.2000 d.26, effective January 18, 2000.
See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

SUBCHAPTER 5. PURCHASES AND ELIGIBLE SERVICE
17:2-5.1 Eligibility for purchase

(a) Only active members of the System shall be eligible to make application for purchase of credit. Active members, who are not currently contributing to the Retirement System, shall purchase their requested service in a lump sum.

(b) In order to be eligible to purchase service, a member must submit a written request to purchase service and such purchase must be authorized by the member before the expiration date indicated on the quotation letter.

(c) 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 shall disallow the purchase of all or a portion of former service it deems to be dishonorable in accordance with N.J.S.A. 43:1-3c.

Amended by R.1999 d.289, effective August 16, 1999.
See: 31 N.J.R. 1581(a), 31 N.J.R. 2368(a).
Rewrote the section.

Case Notes

Employee's request for information regarding purchase of temporary service credit made within one year period following commencement of pension contributions, which resulted in receipt of requested information by employee and timely submission of purchase request denied by Trustees, held to provide Trustees with the opportunity to exercise discretion as to whether to permit purchase of credit. *Handelson v. Bd. of Trustees, Public Employees' Retirement System*, 193 N.J.Super. 223, 473 A.2d 104 (App.Div.1984).

Sewage plant operator who was convicted of multiple counts of unlawful discharge of a pollutant was subject to partial forfeiture of his years of service. *Angelo v. Public Employees' Retirement System*, 96 N.J.A.R.2d (TYP) 287.

Hospital cook was denied his request to purchase an additional year of service credit. *Long v. Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 184.

Employee was not eligible to purchase any portion of his former PERS membership service that arose with his employment at vocational school. *Smollok v. Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 340.

Retiree was not entitled to purchase additional months of temporary service in order to qualify for health care coverage. *Donofrio v. Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 336.

Res judicata blocked employee's later attempt to purchase pension credits for temporary service. *Lord v. Retirement System*, 93 N.J.A.R.2d (TYP) 252.

Employee with military pension not entitled to purchase prior military service credit. *Woodward v. Board of Trustees, Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 124.

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.

No right to purchase prior service credit for temporary employment with postal service where employee had already received full credit for those years through full time city employment. *Fornaro v. Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 105.

Public employee entitled to purchase temporary service credit after one year enrollment period, but price based on salary at purchase date. *Coyle v. Division of Pensions*, 93 N.J.A.R.2d (TYP) 72.

Employee not entitled to purchase prior service credit for on-call work for postal service despite alleged sex discrimination preventing her full-time employment. *Horzempa v. Board of Trustees of the Public Employees' Retirement System*, 93 N.J.A.R.2d (TYP) 32.

Doctrine of substantial compliance with statutory and regulatory requirements invoked to allow petitioner to purchase pension credits for time served out-of-state even though purchase not completed prior to retirement date. *White v. Bd. of Trustees, Public Employees' Retirement System*, 1 N.J.A.R. 334 (1980).

17:2-5.2 New enrollment purchase or rate adjustment

Upon enrollment or reenrollment, a veteran shall contribute at the percent rate applicable to the age resulting from the subtraction of his or her years of prior service (pre-1955) from the date he or she began his or her present employment or the date of enrollment, whichever is later, provided that the member submits satisfactory evidence of prior public employment in New Jersey.

Amended by R.1987 d.144, effective April 6, 1987.
See: 18 N.J.R. 2320(b), 19 N.J.R. 565(a).
Deleted (a).

17:2-5.3 Reestablishing military leave credit

Veterans who terminated membership before January 1, 1955, and whose withdrawal of contributions included contributions paid by their employers during a period of military leave, shall receive veteran prior service credit for only the periods during which they actually contributed. They can receive additional membership credits for the periods of military leave if they redeposit the amounts of employer contributions, plus regular interest to the date of their authorizations of such purchases.

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

17:2-5.4 Compulsory contributions (back deductions)

(a) An employee who was required to enroll and whose application was filed beyond his or her compulsory date of enrollment, will be required to make retroactive contribu-

tions to the date of compulsory enrollment. Contributions will be calculated on the basis of the member's current salary at the full pension rate of contribution assigned as of his or her compulsory date of enrollment with regular interest.

(b) Veterans, who were ineligible to establish membership in a local contributory pension fund and who elect to enroll in accordance with the provisions of P.L. 1966, c.71, must agree, prior to their enrollment, to purchase all continuous public employment with the same employer since January 1, 1955, or the date of their regular appointment. The purchase of service will be calculated on the basis of their current salary multiplied by the actuarial factor established for the member's age at the time of purchase.

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 "make retroactive contributions" for "purchase membership credit retroactive" following "required to" in the first sentence, and substituted "Contributions" for "Purchases" at the beginning of the second sentence.

Case Notes

Waiver of interest payment assessments on petitioner's purchase of retroactive compulsory service credit was properly denied. *Montagna v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 119.

17:2-5.5 Optional purchases of eligible service

(a) A shared-cost purchase is one in which the member pays only the employee's share not the employer's share of the purchase. A member may purchase all or a portion of such eligible service. A shared-cost purchase will be calculated on the basis of the actuarial purchase factor established for the member's age at the time of the purchase request times the higher of either the member's current annual base salary or highest fiscal year base salary. The following types of purchases are shared-cost purchases:

1. Former membership credit with another State-administered retirement system;
2. Former service with any other employer which was not certified for membership but which would have qualified on an optional or a compulsory basis at the time the service was rendered;
3. Continuous temporary service immediately preceding enrollment with the same employer;
4. Leaves of absence without pay:
 - i. The period of the leave for personal reasons which does not exceed 93 days. Child care is considered leave for personal reasons;
 - ii. The period of the leave up to two years for personal illness. The Division may require proof that the illness existed for the length of the leave;

5. Non-veterans may purchase continuous service subsequent to the date their employer adopted the retirement system, provided the service was with the same employer to the date of enrollment;

6. Non-veterans, hired prior to July 1, 1966, whose employers have not adopted the retirement system, may enroll any time and purchase continuous service retroactive to July 1, 1966, provided the service was with the same employer to the date of enrollment;

7. Eligible out-of-State public employment, up to a total purchase of 10 years. As provided in N.J.S.A. 43:15A-42, out-of-State service cannot be used to qualify for an ordinary disability retirement; and

8. Intermittent service, as defined by N.J.A.C. 17:2-2.3(a)8, which resulted, without interruption, in permanent employment with the same employer. The intermittent service shall have been in a position which satisfied, in whole or in part, the job's requirement for experience needed to qualify for the permanent title.

(b) The types of purchases indicated in (b)1 through 3 below are considered to be full-cost purchases. A member may purchase all or a portion of such eligible service. The lump sum purchase cost shall be calculated on the basis of the actuarial purchase factor established for the member's nearest age at the time of the purchase request times the higher of either the member's current annual base salary or highest fiscal year base salary. The computed lump sum purchase cost shall then be doubled to establish the full cost to the member. This cost is calculated in this manner as N.J.S.A. 43:15A-73.1 provides that the employer shall not be liable for any costs of purchasing this service; therefore, the member must pay both the employee and employer share.

1. Active duty military service prior to enrollment. Military service before enrollment cannot be used to qualify for an ordinary disability retirement;
2. Employment with the Federal government. Pursuant to N.J.S.A. 43:15A-42, U.S. Government service cannot be used to qualify for an ordinary disability retirement;
3. Service established under a local municipal or county retirement system within the State of New Jersey.

(c) A member shall be eligible to purchase an aggregate of up to 10 years of out-of-State public employment, military service and Federal employment provided that the member is not receiving nor is entitled to receive a retirement allowance for such service from any other public retirement system and provides proof to the Division of Pensions and Benefits that the member has withdrawn from such other system. A qualified veteran shall be eligible to purchase an additional five years of military service rendered during periods of war for an aggregate of 15 years of such service.

(d) Rules concerning the purchase and/or conversion of Class A credit include the following:

1. The cost of Class B service credit is based on the actuarial factors and such factors provide a retirement benefit which is one-sixth greater than service credited as Class A. If Class A credit is purchased, the cost will be six-sevenths of the amount computed for a Class B purchase. The computation is based on the member's present salary or highest fiscal year base salary multiplied by the actuarial purchase factor for the member's age at the time of purchase with regular interest.

2. If a Class A member converts to Class B, the member will contribute an additional one-sixth of the total contributions that would have been payable based on the member's full Class A contribution rate with regular interest.

Amended by R.1999 d.289, effective August 16, 1999.
See: 31 N.J.R. 1581(a), 31 N.J.R. 2368(a).
Rewrote the section.

Case Notes

Denial of application to purchase additional service credit due to insufficient evidence affirmed. *Webb v. Public Employees' Retirement System*, 97 N.J.A.R.2d (TYP) 83.

Retiree's request to cancel and obtain refund of previously purchased prior service credit in the retirement system denied. *Chmieloweic v. Public Employees' Retirement System*, 94 N.J.A.R.2d (TYP) 73.

17:2-5.6 Methods of payment

(a) Methods of payment include the following:

1. Lump sum;
2. Partial lump sum of \$250.00 or more; balance by extra payroll deductions;
3. Extra deductions equal to at least one-half of the full regular pension deduction for a maximum period of 10 years;
4. Extra payroll deductions will include regular interest for the term of the installment.

Amended by R.1991 d.281, effective June 3, 1991.
See: 23 N.J.R. 685(b), 23 N.J.R. 1800(a).
Mandatory age requirement eliminated.

17:2-5.7 (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 "Military leave".

17:2-5.8 Per diem credit

For the purpose of granting prior service credit for service performed on a per diem, hourly, on-call, or as-needed basis, credit shall be prorated and granted on the basis of 10 days equal one month of credit.

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

Inserted a reference to hourly, on-call, or as needed basis, and substituted a reference to 10 days for a reference to 20 days.

17:2-5.9 (Reserved)

Recodified to N.J.A.C. 17:2-4.15 by R.2000 d.26, effective January 18, 2000.
See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

17:2-5.10 (Reserved)

Recodified to N.J.A.C. 17:2-4.16 by R.2000 d.26, effective January 18, 2000.
See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

17:2-5.11 Service ineligible for purchase

Service rendered outside of the United States, with the exception of eligible service rendered in certain instances in territories or possessions of the United States, Washington, DC and the Canal Zone, is not purchasable.

Amended by R.1999 d.289, effective August 16, 1999.
See: 31 N.J.R. 1581(a), 31 N.J.R. 2368(a).
Rewrote the section.

17:2-5.12 Correction of errors

Credit for all previous service established under the provisions of P.L. 1974, c.104, and payment therefor, shall be calculated on the basis of salaries received during the period of such service with applicable regular interest. The pension rate of contribution will be determined as of the member's compulsory date of enrollment.

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

Inserted "and payment therefor," preceding "shall be" and added "with applicable regular interest" at the end of the first sentence, and deleted a former third sentence.

17:2-5.13 Lump-sum purchases

If a purchase is paid in a lump sum, the member shall receive full credit for the amount of service covered by the purchase upon receipt of the lump-sum payment. The service may be used for any purpose for which it is authorized under the Public Employees' Retirement System Act (N.J.S.A. 43:15A-1 et seq.) and the rules of the Retirement System.

New Rule, R.1989 d.516, effective October 2, 1989.
See: 21 N.J.R. 1820(b), 21 N.J.R. 3176(b).
Amended by R.2000 d.26, effective January 18, 2000.
See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

SUBCHAPTER 6. RETIREMENT

17:2-6.1 Applications

(a) Applications for retirement must be made on forms required by the System. Such forms must be completed in all respects and filed with the Division of Pensions and Benefits (Division) on or before the requested date of

retirement. A member's retirement application becomes effective on the first of the month following receipt of application unless a future date is requested. Members enrolled at multiple PERS locations must retire from employment in all covered positions before a retirement shall become effective.

(b) In the event a member files an incomplete application, the deficiencies shall be brought to the member's attention and the member shall be required to file a completed application with the Division to enable processing.

(c) Before an application for retirement may be processed, the Division must receive proof of the member's age, if none is already in the member's record, proof of the beneficiary's age, if the member elected Option 2, 3 or 4, and a completed Certification of Service and Final Salary form from the employer setting forth the employment termination date, and the salaries reported for contributions in the member's final year of employment.

(d) In addition to the foregoing requirements, a member's application for disability retirement must be supported by at least two medical reports, one by the member's personal or attending physician and the other may be either hospital records supporting the disability or a report from a second physician.

(e) Retired members, who return to public employment, shall have their previous retirement allowances cancelled and be reenrolled in the System pursuant to N.J.S.A. 43:15A-44 for those who retired on disability retirements or N.J.S.A. 43:15A-57.2 for those who retired on early, service, veteran or deferred retirements. A member who ceases covered employment and retires again must file a new retirement application with the Division in accordance with (a) through (d) above in order to initiate payment of the retirement allowance. The previous retirement allowance shall then be reinstated, and the new retirement allowance, based on the member's subsequent covered employment, shall commence. The previous and subsequent retirement allowances shall then be combined and paid in one monthly benefit check. The retirement allowance shall become effective on the first of the month following receipt of the application unless a future date is requested.

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).

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.

R.1974 d.230, effective August 19, 1974.
 See: 6 N.J.R. 32(a), 6 N.J.R. 361(a).
 Amended by R.1978 d.138, effective May 1, 1978.
 See: 10 N.J.R. 38(a), 10 N.J.R. 265(c).
 Amended by R.1990 d.377, effective August 6, 1990.
 See: 22 N.J.R. 1348(a), 22 N.J.R. 2342(c).

Benefits based on salary attributable to the prescribed period.
 Amended by R.2000 d.26, effective January 18, 2000.
 See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

Deleted "State" throughout; in (a), substituted "pensionable pay periods" for "pays" following "biweekly", and substituted "covered" for "prescribed" preceding "period"; in (c), substituted "pay periods" for "pays" following "biweekly" in the first sentence; and in (d), deleted a former second sentence.

17:2-6.25 Determination of last year's salary; veterans reported on a biweekly basis

(a) In order to determine the last year's salary for a veteran with 35 or more years of creditable service, age 60 or older reported on a biweekly basis under a 12-month contract, use a total of 26 biweekly pay periods including any across the board retroactive salary payments made within the covered period. The total salary will be adjusted by factors supplied by the actuary to compensate for biweekly payroll schedules.

(b) In order to determine the last year's salary for a veteran with 35 or more years of creditable service, age 60 or older, reported on a biweekly basis under a 10-month contract, include in the total 26 biweekly pay periods those pay periods in the third quarter of each year in which the member does not receive salary, 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. The adjustment as specified in (a)1 above shall not be made.

(c) In order to determine the last year's salary for a veteran with 20 or more years of creditable service, age 62 or older, reported on a biweekly basis under a 12-month contract, use the member's creditable salaries upon which contributions were made in the member's final 26 biweekly pay periods of pensionable service preceding retirement, or in the 26 consecutive pay periods 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. The total salary will be adjusted by factors supplied by the actuary to compensate for biweekly payroll schedules.

(d) In order to determine the last year's salary for a veteran with 20 or more years of creditable service, age 62 or older, reported on a biweekly basis under a 10-month contract, the total 26 biweekly pay periods will include those pay periods in the third quarter of each year in which the member does not receive salary, 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. The adjustment as specified in (a)1 above shall not be made.

(e) If a member was reported on a biweekly basis on any combination of 10 and 12-month contract years, the last year's salary prior to retirement shall be determined on a proportional basis.

R.1974 d.230, effective August 19, 1974.
 See: 6 N.J.R. 32(a), 6 N.J.R. 361(a).
 Amended by R.1978 d.138, effective May 1, 1978.
 See: 10 N.J.R. 38(a), 10 N.J.R. 265(c).
 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

Determination of retirement allowance on basis of last 26 pay periods as figure for last year of compensation was proper. *Rossi v. Public Employees' Retirement System*, 95 N.J.A.R.2d (TYP) 9.

17:2-6.26 Medical examination; physician

N.J.S.A. 43:15A-42.43 and 44 require the Retirement System or the Board to designate physicians to perform medical examinations. A designated physician shall not be a member's personal physician, except in the case of a member whose personal physician has identified the member as having a probable abbreviated life expectancy (referred to as an "imminent death" case), if corroborating medical evidence of the diagnosis can be obtained.

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.1981 d.515, effective January 18, 1982.
 See: 13 N.J.R. 748(a), 14 N.J.R. 105(a).
 Deleted "in order to . . . fund" and substituted therefor "in the cases . . . obtained."
 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.

17:2-6.27 Work-related travel; accidental disability retirement and accidental death benefit coverage

(a) A member whose duties include regular or occasional travel in the course of employment will be considered in the "performance of the member's regular or assigned duties" for the purposes of accidental disability retirement or "in the actual performance of duty" for the purposes of accidental death benefits during employment-related travel as provided in this section. For the purposes of this section, "in performance of duty" means and includes both "performance of regular or assigned duties" and "in the actual performance of duty."

(b) If a member's duties require or authorize the member to travel between a regularly assigned office or workplace and other locations, or among other locations, the member is in performance of duty during travel between a regularly assigned office or workplace and other locations, or among other locations.

(c) If a member's duties require or authorize the member to travel between the member's place of residence and a location other than an office or workplace of the employer to which the member is regularly assigned or near to the

regularly assigned office or workplace to perform the duties of the employment, the member is in performance of duty when the member completely leaves the property of the member's residence and begins to travel to the other location, or until the member begins entry to the property of residence after travel from the other location, and all expenses of the travel are paid for by the employer. A member's duties are considered to authorize or require travel from the place of residence to a location other than a regularly assigned office or workplace of the employer in the following situations:

1. The member's regular or assigned duties involve field work which requires or authorizes the member to travel to locations other than a regularly assigned office or workplace of the employer to perform his or her duties and do not require the member to report to a regularly assigned office or workplace before or after traveling to other locations. Travel by the member between a regularly assigned office or workplace of the employer and the place of residence of the member is not considered part of the member's duties.

2. The member's regular or assigned duties are usually performed at an office or workplace of the employer to which the member is regularly assigned but occasionally require or authorize travel to other locations.

3. The member is authorized or required by the member's employer to respond to an emergency situation outside of the member's regularly scheduled work hours, regardless of whether the member goes to a regularly assigned office or workplace or another location, or whether the expenses of the travel are paid for by the employer or the member.

4. The member is attending a meeting, seminar, convention or a similar type of work-related activity as authorized or required by the employer at a location other than a regularly assigned office or workplace, regardless of whether the expenses of the travel are paid for by the employer or the member. Where there are social or recreational activities associated with the work-related activity or attendance requires living accommodations, only travel to and from the general activity and participation in and travel to and from the work-related functions of the activity are considered part of the duties of the member. Activities related to social or recreational functions or living accommodations are not considered part of the duties of the member.

(d) In all cases, a certification from the employer is required and must include a copy of the member's job description, a statement of the member's work schedule on the day of the travel in question, and proof of or a statement by the employer that the travel was authorized or required by the employer and was paid for by the employer.

New Rule, R.1989 d.422, effective August 7, 1989.
See: 21 N.J.R. 1285(a), 21 N.J.R. 2300(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), neutralized a gender reference; and in (c)1, substituted a reference to duties for a reference to dues at the end.

Case Notes

Public prosecutor's conduct in attempting to traverse balconies on eighth floor of building under poor lighting conditions while intoxicated constituted willful negligence precluding award of accidental death benefits. Estate of Greene, 96 N.J.A.R.2d (TYP) 215.

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); or

iii. The account has expired; that is, it has been more than two years from the date of the last contribution and there was not enough service credit to be eligible for a deferred retirement.

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.

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).