

R.1975 d.235, effective August 1, 1975.
See: 7 N.J.R. 346(b), 7 N.J.R. 446(a).

17:1-4.29 Employer resolution; involuntary disability application

(a) Applications for the involuntary disability retirement of an employee of a local employer must be accompanied by a resolution of the governing body, or in the case of a State employee, by a letter from the State department head, certifying that the employee is disabled and unable to perform his regular or assigned duties.

(b) The resolution or letter and retirement application must be accompanied by supporting medical reports.

R.1975 d.235, effective August 1, 1975.
See: 7 N.J.R. 346(b), 7 N.J.R. 446(a).
Petition for Rulemaking.
See: 30 N.J.R. 2308(b), 30 N.J.R. 2959(a).

17:1-4.30 Optional settlements; group life insurance

As the statutes provide that death benefits under the group life insurance contracts may be paid under any optional settlement made available by the insurance company, the beneficiary will be informed of such opportunity in the correspondence when such optional settlements are possible. If the beneficiary requests advice concerning such settlements, the claim shall be forwarded to the carrier for contact with the beneficiary. The Division will be advised of the final settlement for the recording of the data with the retirement system.

R.1977 d.416, effective November 1, 1977.
See: 9 N.J.R. 493(e), 9 N.J.R. 601(a).

17:1-4.31 Normal retirement age

(a) The normal retirement age for the respective systems are as follows:

1. As per N.J.S.A. 43:15A-47, age 60 in the Public Employees' Retirement System;
2. As per N.J.S.A. 18A:66-43, age 60 in the Teachers' Pension and Annuity Fund;
3. As per N.J.S.A. 43:16A-5, age 55 in the Police and Firemen's Retirement System;
4. As per N.J.S.A. 53:5A-8, age 55 in the State Police Retirement System;
5. As per N.J.S.A. 43:6A-9.2, age 60 in the Judicial Retirement System.

R.1980 d.64, effective February 5, 1980.
See: 12 N.J.R. 55(a), 12 N.J.R. 163(b).

17:1-4.32 Workers' compensation; reduction of retirement allowance

(a) A member who retires on an accidental disability retirement under the provisions of the applicable statutes governing the various State-administered retirement systems

and who receives periodic benefits under the workers' compensation law after the date of retirement shall be subject to a reduction in the pension portion of his or her retirement allowance in the amount of the periodic benefits received after the date of retirement.

1. The reduction shall be a dollar-for-dollar reduction in the pension portion of the retirement allowance in the amount of the periodic benefits for the time period for which the periodic benefits are received.

2. If an accidental disability retiree receives a retirement allowance without reduction and periodic benefits under the workers' compensation law for any time period after the date of retirement, the retiree shall repay to the retirement system the amount of the pension portion of his or her retirement allowance which should have been subject to reduction under the applicable statute and this rule. The repayment may be in the form of a lump sum payment or scheduled as deductions from the retiree's retirement allowances and pension adjustment benefits, except that, if the retiree does not respond by remitting payment in a lump sum within 60 days, the Division shall establish a repayment schedule. In the event of the death of the retiree before full repayment of the amount required under this rule, the remaining balance shall be deducted from any death benefits payable on behalf of the retiree.

3. The reduction under this rule shall not affect the retiree's pension adjustment benefits or survivor benefits that may be payable upon the death of the retiree.

(b) Any retiree or beneficiary receiving pension adjustment benefits based upon a retirement allowance reduced due to receipt of periodic workers' compensation benefits shall be entitled to receive pension adjustment benefits based upon the full retirement allowance.

R.1981 d.85, effective March 6, 1981.
See: 13 N.J.R. 109(a), 13 N.J.R. 247(c).
Repeal and New Rule, R.1994 d.424, effective August 15, 1994.
See: 26 N.J.R. 2201(a), 26 N.J.R. 3461(a).

17:1-4.33 Leaves of absence for maternity; benefits; nondiscrimination

In accordance with the Attorney General's opinion AAA M79-4158, rendered in January, 1981, public employees, who are on authorized leaves of absence for maternity, will not be treated any differently from other public employees, who are on authorized leaves of absence for personal illness, concerning their rights, duties and obligations regarding their pension or other related employee benefit programs.

R.1981 d.428, eff. November 2, 1981.
See: 13 N.J.R. 617(b), 13 N.J.R. 779(e).
New Rule.

17:1-4.34 Credit for partial month service

(a) For retirement purposes, a full month of service credit will be granted to any member who has rendered 16 days or more of eligible service within a particular month.

(b) In order to purchase a full month of service credit for previous, eligible service, an employee must have been appointed to such position before the 17th day of a particular month and remained in that capacity at the end of that month. (See N.J.A.C. 17:1-4.4 for Enrollment schedules).

R.1982 d.469, effective January 3, 1983.

See: 14 N.J.R. 1201(b), 15 N.J.R. 36(c).

Case Notes

Teacher entitled to additional free veterans' prior service credit for work as substitute teacher and summer recreational instructor. *D'Amato v. Board of Trustees of the Teachers' Pension and Annuity Fund*, 92 N.J.A.R.2d (TYP) 62.

17:1-4.35 Purchases pursuant to Chapter 226, Laws of 1985

In order to be eligible to purchase temporary service credit under the provisions of Chapter 226, Laws of 1985, a member of the Public Employees' Retirement System shall submit a written request to purchase the temporary service credit within one year from the date that his or her initial pension contributions to the Public Employees' Retirement System are certified to begin. Such purchase must be authorized by the member before the expiration date indicated on the purchase quotation letter issued by the Division of Pensions.

New Rule R.1986 d.390, effective October 6, 1986.

See: 18 N.J.R. 1450(b), 18 N.J.R. 2059(a).

17:1-4.36 Peacetime military service; service credit

(a) A member or former member, or a person required to be a member, of a State-administered retirement system who leaves employment covered by a State-administered retirement system to enter military service of the United States and returns to covered employment within the time period and under the circumstances required for entitlement to reemployment rights under federal law (38 U.S.C. sec. 2021 et seq.), may obtain service credit in the State-administered retirement system covering the employment after military service as provided in this section. The types of service or situations eligible for reemployment rights include regular active duty, initial active duty for training, active and inactive training for members of reserve components and National Guard units, and situations where an employee leaves employment for military service or for examination of fitness for military service and is not taken into military service.

1. The person must be a member or be required to be a member of a State-administered retirement system prior to leaving employment to enter military service and must leave the covered employment to enter military service.

2. The person must return to employment covered by a State-administered retirement system within the time periods prescribed by federal law. A person may serve only four years, plus an additional year, or other additional, limited time periods in the case members of the National Guard or military reserve units called to active duty, to be eligible for reemployment rights. The person must seek reemployment within the time period prescribed by federal law which is generally 90 days following release from military service. A reservist or guardsman returning from initial active duty for training must seek reemployment within 31 days after release from duty. A person returning from other training duty or who leaves employment for military service or for examination of fitness for military service and is not taken into military service must report to work at the next regularly scheduled work period after release from duty. In all cases, the time limit for return to employment is tolled for up to one year for any injury or illness related to military service requiring hospitalization which continues after release from military service.

3. The person's military service must have been honorable or satisfactory. This requirement is not applicable to military training other than initial active duty for training.

4. The person may be denied reemployment rights if the person is not qualified to perform the duties of the position for which reemployment is sought or if the employer's circumstances have so changed as to make it impossible or unreasonable to reemploy the person. The person will not be entitled to service credit in a State-administered retirement system if reemployment is validly denied.

5. To receive service credit in a State-administered retirement system for military service, the person must apply within one year following the date of return to employment or the date initial pension contributions are certified to begin in the retirement system if the person's former membership was terminated or was in a different retirement system.

6. To obtain service credit for the military service, the person must make contributions to the retirement system for all of the period of military service based upon the person's current salary and full percentage contribution rate. The contributions must be authorized by the person within one year following the date of return to employment or the date initial pension contributions are certified to begin, or the expiration date indicated on the quotation letter, whichever is later.

7. A person who returned to employment covered by a State-administered retirement system after December 3, 1974 and on or before January 24, 1986, and was eligible for reemployment rights under federal law with respect to the employment, may obtain service credit for the military service by applying, on or before January 24, 1987, to:

i. The retirement system of which the person is a member, or was a member in the case of a retired person; or

ii. The Division of Pensions in the case of a former member of a State-administered retirement system who is not retired or is not a current member.

8. The contributions required to obtain the service credit shall be based upon the person's salary and full percentage contribution rate at the time of return to employment.

9. The contributions required to obtain the service credit may be paid by any method authorized for purchases of service credit under the retirement system.

10. If a person retires prior to paying the total amount of contributions required to obtain service credit for the military service, the total amount of service credit shall be in direct proportion as the amount paid bears to the total amount of contribution obligation.

New Rule, R.1987 d.198, effective May 4, 1987.
See: 19 N.J.R. 353(b), 19 N.J.R. 772(b).

17:1-4.37 Ordinary disability applications; medical examinations

(a) Applicants for ordinary disability retirement shall submit with their applications all the medical information they can supply relative to their disability, including reports of their personal physicians and consulting physicians, hospital records, diagnostic test results, and any other medical information which would assist the Medical Review Board and the board or commission of the retirement system in determining eligibility of the applicants for disability retirement. The Disability Review Section shall forward the applications and the accompanying medical information to the Medical Review Board.

(b) If the medical information supplied by the applicant is sufficient for the Medical Review Board to make a medical recommendation, it shall return the case to the Disability Review Section with its recommendation. If the Medical Review Board deems that the medical information supplied by the applicant is not sufficient for it to make a medical recommendation, it shall advise the Disability Review Section to arrange to have the applicant examined by a physician or physicians under contract with the Division of Pensions to perform disability examinations, or to obtain additional information needed to make its medical recommendation.

(c) The board or commission which governs the pension fund or retirement system may request that an applicant be examined or reexamined by a physician or physicians under contract with the Division of Pensions, or that additional information be obtained, if it deems that the medical information available is insufficient to make a decision on the eligibility of the applicant for ordinary disability retirement.

New Rule, R.1988 d.231, effective June 6, 1988.
See: 20 N.J.R. 231(a), 20 N.J.R. 1286(b).

17:1-4.38 Compensation limit for exclusion from membership after retirement

Beginning with the calendar year 1999, and for any calendar year thereafter, the Director of the Division of Pensions and Benefits may adjust the compensation limit for exclusion from membership after retirement. The compensation limit shall be adjusted by increments of \$1,000, when \$10,000 increased by $\frac{3}{8}$ times the change in the Consumer Price Index as defined in N.J.S.A. 43:3B-1f from the Index applicable to calendar year 1997 to the Index applicable to the calendar year immediately preceding the year of adjustment, rounded to the next highest 100 dollars, exceeds the previous compensation limit by \$1,000.

New Rule, R.1998 d.242, effective May 18, 1998.
See: 30 N.J.R. 1024(a), 30 N.J.R. 1847(c).

17:1-4.39 Workers' compensation: employer's obligation regarding employee contributions

(a) An employer is responsible for the payment of an employee's pension contributions while the employee is receiving periodic temporary disability benefits through workers' compensation in lieu of pay.

(b) An employer is responsible for the payment of an employee's pension contributions while the employee is receiving a periodic award of permanent disability benefits through workers' compensation without pay if:

1. The employee is unable to perform the job functions of the former position;
2. The employee is either forced to resign, or is terminated due to the employee's inability to perform the job functions of the former position; and
3. The employee does not have sufficient credited service to be eligible to receive an ordinary disability retirement allowance.

(c) An employer is not responsible for the payment of an employee's pension contributions while the employee is receiving a periodic award of permanent disability benefits through workers' compensation without pay if:

1. The employee has sufficient credited service to be eligible to receive an ordinary disability retirement allowance;
2. The employee voluntarily resigns from the employment; or
3. The employee is terminated by the employer for reasons unrelated to a workers' compensation award.

(d) If an employer ceases payment of employee pension contributions due to the reasons listed in (c)2 or 3 above, the employer shall notify the Division of Pensions and Benefits in writing of the reasons for the cessation of payments.

New Rule, R.1999 d.109, effective April 5, 1999.
See: 31 N.J.R. 265(a), 31 N.J.R. 892(b).

Case Notes

New rule reflects an expression of the Division of Pensions and Benefits' current interpretation of statute, as well as its policy to be applied across the board to employee pensions. *James v. Board of Trustees, Public Employees Retirement System*, 323 N.J.Super. 100, 732 Ad.2d 517 (N.J.Super.A.D. 1999).

SUBCHAPTER 5. HEARINGS

17:1-5.1 Hearing request

(a) The division, board or commission shall cause to be given to the applicant written notice of its decision. Said notice shall inform the applicant of his or her right to request a hearing in the event the applicant disagrees with the decision of the agency and the manner in which such request must be made.

(b) The decision by the agency shall be final unless the applicant shall file a request for a hearing within 45 days after the date of the written notice of the decision.

(c) Administrative hearings will be conducted by the Office of Administrative Law pursuant to the provisions of N.J.S.A. 52:14B-1 et seq. and N.J.A.C. 1:1.1.

As amended, R.1982 d.491, effective January 17, 1983.
See: 14 N.J.R. 1290(a), 15 N.J.R. 95(b).

Hearings conducted by Office of Administrative Law.

Case Notes

Policeman was not entitled to reopen denied application for accidental disability retirement benefits. *Obsuth v. Board of Trustees of the Police and Firemen's Retirement System*, 93 N.J.A.R.2d (TYP) 175.

17:1-5.2 through 17:1-5.6 (Reserved)

R.1982 d.491, effective January 17, 1983.
See: 14 N.J.R. 1290(a), 15 N.J.R. 95(b).
Deleted sections.

SUBCHAPTER 6. (RESERVED)

Authority

Unless otherwise expressly noted, all provisions of this subchapter concerning the judicial Pension Fund were rescinded pursuant to authority of N.J.S.A. 52:18A-95 et seq. and such recession was filed and effective September 12, 1973, as R.1973 d.258. See: 5 N.J.R. 292(d), 5 N.J.R. 358(b).

SUBCHAPTER 7. PENSION ADJUSTMENT PROGRAM

17:1-7.1 Employer payments; multiple enrollees

The liability of the several employers in the case of multiple enrollees (a pensioner receiving benefits from a retirement system on the basis of several positions covered by the same system) will be prorated on the basis of the final salaries reported to the system prior to retirement.

As amended, R.1969 d.34, effective December 19, 1969.
See: 1 N.J.R. 10(a), 2 N.J.R. 7(a).

17:1-7.2 Employer payments; delinquencies

(a) The division will inform all retirants and beneficiaries of the reason for the suspension of payments.

(b) Retroactive adjustments will be made once the employer's appropriation has been paid.

As amended, R.1976 d.212, effective July 2, 1976.
See: 8 N.J.R. 312(d), 8 N.J.R. 407(b).

17:1-7.3 Administration fees; investment earnings

(a) The certification by the Director of the Division of Pensions of the amounts payable by local employers shall include an administrative fee to reimburse the State for the cost of administering the Pension Adjustment Program on behalf of their employees. The fee shall be \$1.00 per pensioner or beneficiary.

(b) Administrative fees, assessable to local employers participating in the Pension Adjustment Program, will be recovered from investment earnings on contributions as long as such earnings exceed the fees assessable. Employers will be billed for the difference whenever the investment earnings are less than the administrative fees assessed.

(c) Excess earnings, remaining after the recovery of the assessment of the administrative fees, shall be transferred to the State of New Jersey—General Fund.

As amended, R.1971 d.16, effective February 1, 1971.
See: 3 N.J.R. 11(b), 3 N.J.R. 52(a).
As amended, R.1978 d.421, effective December 12, 1978.
See: 10 N.J.R. 516(a), 11 N.J.R. 52(a).
As amended, R.1981 d.291, effective August 6, 1981.
See: 13 N.J.R. 374(e), 13 N.J.R. 525(a).

Rule concerning administration fees and investment earnings replaces "Reserved" section.

17:1-7.4 Return to public employment; pension adjustments

(a) When a retiree returns to public employment to a position covered by the same retirement system from which he or she retired and subsequently retires from the post-retirement employment, each retirement will be treated separately for pension adjustment purposes.

(b) The benefit year for each retirement will be the initial year in which the retirement is effective and the member shall satisfy the 24 month waiting period for each retirement before the pension adjustment benefits may be received for that retirement.

(c) If a member was receiving pension adjustment benefits at the time that the initial retirement was cancelled due to the post-retirement employment, he or she shall begin to receive pension adjustment benefits based upon the initial retirement immediately upon the reinstatement of the initial retirement.

As amended, R.1971 d.16, effective February 1, 1971.
See: 3 N.J.R. 11(b), 3 N.J.R. 52(a).
New Rule, R.1987 d.128, effective March 16, 1987.
See: 19 N.J.R. 51(b), 19 N.J.R. 456(b).

17:1-7.5 (Reserved)

As amended, R.1971 d.16, effective February 1, 1971.
See: 3 N.J.R. 11(b), 3 N.J.R. 52(a).

17:1-7.6 Waiver

(a) Application for waiver in whole or part by a retiree or beneficiary who is eligible to receive the increased allowance shall be made at least 30 days prior to the desired effective date on a form prescribed by the Division of Pensions and shall be effective on the first day of a subsequent month.

(b) A waived benefit may be reinstated by application to the Division of Pensions at least 30 days prior to the reinstatement date and shall be effective on the first of a subsequent month.

As amended, R.1969 d.34, effective December 19, 1969.
See: 1 N.J.R. 10(a), 2 N.J.R. 7(a).

17:1-7.7 Accrued increase; limitations

Upon the death of a retiree or a beneficiary receiving a pension, any payments which were due to the deceased shall be paid to a named beneficiary as established in the records of the State-administered retirement system, or if none is named, to the deceased's estate.

As amended, R.1969 d.34, effective December 19, 1969.
See: 1 N.J.R. 10(a), 2 N.J.R. 7(a).

17:1-7.8 Employer payments

The employers shall review the detailed tabulations of retirees and beneficiaries provided with the invoice for employer liability submitted by the Division of Pensions and shall report any corrections or revisions within 60 days of receipt of the invoice, otherwise invoices must be paid as submitted.

SUBCHAPTER 8. SOCIAL SECURITY

17:1-8.1 (Reserved)

Repealed by R.1981 d.1, effective January 2, 1981.
See: 12 N.J.R. 727(c), 13 N.J.R. 111(c).
Section was "Director's responsibility".

17:1-8.2 Records

(a) The records of the State Agency for Social Security are public records and may be inspected during regular business hours at the office of Chief of the Bureau of Contribution Accounting under the supervision of the chief or other representative of the office.

(b) Records are considered confidential where no official purpose or reason for inspection is indicated.

17:1-8.3 Social Security referendum

(a) As the provisions of P.L. 1956, c.169, contemplate the termination of an entire pension fund and the transfer of its assets, liabilities and membership to the Public Employees' Retirement System upon a successful referendum on the issue of Social Security coverage by a majority vote, when the referendum involves the use of a divided system approach in accordance with the provisions of P.L. 1980, c.86, all of the provisions of P.L. 1956, c.169, shall apply except on a pro rata basis.