

CHAPTER 5**STATE POLICE RETIREMENT SYSTEM****Authority**

N.J.S.A. 53:5A-30h.

Source and Effective Date

R.2006 d.241, effective June 6, 2006.
See: 38 N.J.R. 1173(a), 38 N.J.R. 2885(a).

Chapter Expiration Date

Chapter 5, State Police Retirement System, expires on June 6, 2011.

Chapter Historical Note

Chapter 5, State Police Retirement System, was adopted and became effective prior to September 1, 1969.

Subchapter 4, Purchase and Eligible Service, was adopted as R.1982 d.66, effective March 15, 1982. See: 13 N.J.R. 939(a), 14 N.J.R. 284(e).

Pursuant to Executive Order No. 66(1978), the individual Subchapters of Chapter 5 expired on May 12, 1985 and were adopted as new rules by R.1985 d.614, effective December 2, 1985. See: 17 N.J.R. 2018(a), 17 N.J.R. 2914(a).

Pursuant to Executive Order No. 66(1978), Chapter 5, State Police Retirement System, was readopted as R.1991 d.2, effective November 30, 1990. See: 22 N.J.R. 3200(a), 23 N.J.R. 123(a). Pursuant to Executive Order No. 66(1978), Chapter 5, State Police Retirement System, expired on November 30, 1995.

Chapter 5, State Police Retirement System, was adopted as new rules by R.1996 d.268, effective June 17, 1996. See: 28 N.J.R. 1492(a), 28 N.J.R. 3167(a).

Pursuant to Executive Order No. 66(1978), Chapter 5, State Police Retirement System, was readopted as R.2001 d.128, effective March 22, 2001. See: 33 N.J.R. 204(a), 33 N.J.R. 1205(a).

Chapter 5, State Police Retirement System, was readopted by R.2006 d.241, effective June 6, 2006. See: Source and Effective Date. See, also, section annotations.

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SUBCHAPTER 1. ADMINISTRATION**17:5-1.1 Board meetings**

The Board of Trustees shall meet at the call of the chairperson and secretary at such time as may be deemed necessary by the Board.

Amended by R.2001 d.128, effective April 16, 2001.
See: 33 N.J.R. 204(a), 33 N.J.R. 1205(a).

Substituted "at such time as may be deemed necessary by the board" for "subject to the prescribed requirements and procedures of c.231, P.L. 1975".

17:5-1.2 Fiscal year

(a) Fiscal year shall mean the 12-month period of fiscal transactions commencing July 1 and running until June 30 following.

(b) All reports and statements will consider such a fiscal year except special reports not having direct relationship to the financial transactions of the retirement system.

17:5-1.3 Officers and committees

(a) The chairperson and vice chairperson of the Board will be elected by a majority vote of the members in attendance at the first meeting of July, not less than three members to be present at such a meeting. 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. If both are absent, another member selected by the majority of the members in attendance will preside for that single meeting.

(b) The Director of the Division of Pensions and Benefits shall appoint a qualified employee of the Division to be Secretary of the Board.

(c) The chairperson will appoint such committees from the Board members as deemed necessary to facilitate the Board's operations. Such committee appointment will be for a one-year period, commencing each July 1.

Amended by R.2001 d.128, effective April 16, 2001.
See: 33 N.J.R. 204(a), 33 N.J.R. 1205(a).

Rewrote section.

17:5-1.4 Certifying officer (employer)

(a) The official properly designated by the Division of State Police will serve as the certifying officer.

(b) The prime purpose of the certifying officer will be to certify facts of enrollment, retirement, withdrawal and to implement proper procedures for the reports and transmittal of employee deductions and to act as liaison for all dealings between the Division of State Police and the Retirement System. The certifying officer shall also be responsible for all other duties relating to matters concerning the System including providing requested documentation in a timely manner.

Amended by R.2006 d.241, effective July 3, 2006.
See: 38 N.J.R. 1173(a), 38 N.J.R. 2885(a).

In (b), capitalized "Retirement System" and added final sentence.

17:5-1.5 Records

(a) The minutes of the Board are a matter of public record and may be inspected during regular business hours in the Office of the Board Secretary.

(b) The mailing addresses of all active and retired members are considered to be a part of the member's confidential files and shall not be released for any purpose.

(c) The designations of beneficiaries of all active and retired members are considered to be a part of the member's confidential files and shall only be released upon a signed release by the active member or retiree or after the death of the active member or retiree.

(d) All medical testimony obtained in connection with an application for disability retirement shall be restricted for the

confidential use of the Board. The Division shall release a copy of the examining physician's medical report to the member, the member's attorney or any person authorized by the member in writing to receive a copy of such report. A copy of the Board appointed physician's medical report cannot be released until after the Board's initial determination. In no event shall the report be released to any individual not authorized in writing to receive the report.

(e) The annual report of the System's actuary shall not be released until it has been approved by the Board.

(f) Original documents, if available, shall only be viewed by appointment at the Division of Pensions and Benefits by contacting the Client Services Section at (609) 292-7524.

Amended by R.2001 d.128, effective April 16, 2001.

See: 33 N.J.R. 204(a), 33 N.J.R. 1205(a).

Added new (c); recodified former (c) as (d) and added the second and third sentences.

Amended by R.2006 d.241, effective July 3, 2006.

See: 38 N.J.R. 1173(a), 38 N.J.R. 2885(a).

In (a), capitalized "Office" and "Secretary"; in (c), substituted "upon a signed release by the active member or retiree or after the death of the active member or retiree" for "after the member's death"; rewrote (d); and added (e) and (f).

17:5-1.6 Appeal from board decisions

The following statement shall be incorporated in every written notice setting forth the Board's determination in a matter where such determination is contrary to the claim made by the claimant or the claimant's legal representative:

"(a) If you disagree with the determination of the Board, you may appeal by submitting a written statement to the Board within 45 days after the date of written notice of the determination. The statement shall set forth in detail the reasons for your disagreement with the Board's determination and shall include any relevant documentation supporting your claim. If no such written statement is received within the 45-day period, the determination by the Board shall be final.

(b) The Board shall determine whether to grant an administrative hearing based upon the standards for a contested case hearing set forth in the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1 et seq.

(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.

(d) If the granted appeal involves a question of facts, the Board shall submit the matter to the Office of Administrative Law.

(e) If the granted appeal involves solely a question of law, the Board may retain the matter and issue a final administrative determination which shall include detailed findings of fact and conclusions of law based upon the documents, submissions and legal arguments of the parties. The Board's

17:5-3.4 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.2001 d.128, effective April 16, 2001.

See: 33 N.J.R. 204(a), 33 N.J.R. 1205(a).

Substituted "\$2.00" for "\$3.00" and added "during a calendar quarter".

17:5-3.5 Suspension

(a) A suspended member will have insurance coverage continued for the period of the suspension, terminated by resignation or dismissal.

(b) No deductions will be made during such a break in service, nor will any service credit accrue.

(c) If, during the period of suspension or at the conclusion of the penalty period, adjustment is made in favor of the member, the Board may allow the payment of pension deductions to reflect the lesser penalty or the elimination of the entire suspension.

Amended by R.2001 d.128, effective April 16, 2001.

See: 33 N.J.R. 204(a), 33 N.J.R. 1205(a).

In (b), deleted "retirement" preceding "deductions" and substituted "service" for "retirement"; in (c), deleted "entire" preceding "elimination" and inserted "entire" preceding "suspension."

17:5-3.6 Service and salary credit: awards of back pay

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

(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 the member's 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 contribution is received from the member or deducted from the value of the award. The amount of the pension 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 contribution 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 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 due, such contribution shall be paid by the member.

(c) In no case shall service or salary credit be given to a member who appeals the suspension or termination of the member's employment if the award of back pay, before mitigation, is less than the value of the normal pension 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. 17:5-3.1, the Board shall determine the compensation to be used to calculate the retirement allowance and the member shall have the pension contributions for the salaries found not to be creditable 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.2001 d.128, effective April 16, 2001.

See: 33 N.J.R. 204(a), 33 N.J.R. 1205(a).

In (b), neutralized gender references throughout.

Recodified from N.J.A.C. 17:5-5.6 and amended by R.2004 d.397, effective October 18, 2004.

See: 36 N.J.R. 1737(a), 36 N.J.R. 4835(b).

In (a), inserted "service" preceding "credit" and substituted "for" for "in" following "pay period"; rewrote (b); added a new (c); added (d); recodified former (c) as (e).

Amended by R.2006 d.241, effective July 3, 2006.

See: 38 N.J.R. 1173(a), 38 N.J.R. 2885(a).

In (a), inserted "Retirement"; and rewrote (d).

17:5-3.7 Eligibility for loan

Only active contributing members of the Retirement System may exercise the privilege of obtaining a loan. The member's total outstanding loan balance shall not exceed 50 percent of the accumulated deductions posted to the member's account or \$50,000. The loan is subject to 26 U.S.C. §72(p).

Amended by R.2001 d.128, effective April 16, 2001.

See: 33 N.J.R. 204(a), 33 N.J.R. 1205(a).

Rewrote section.

Amended by R.2006 d.241, effective July 3, 2006.

See: 38 N.J.R. 1173(a), 38 N.J.R. 2885(a).

Inserted "Retirement" in the first sentence, added "or \$50,000." at the end of the second sentence, and added the final sentence.

17:5-3.8 Termination; withdrawal

(a) Under the terms of the statutes, a member may withdraw from the Retirement System only if the member terminates all employment. No application shall be approved if:

1. The member is on official leave of absence;

2. The member or employer certifies that employment has not ended or that the member has taken another position subject to 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 there is an appeal and the withdrawal application is processed, the member must repay the Retirement System the full amount of contributions with interest before the account may be reinstated; or

4. The member has a claim pending for Workers' Compensation benefits, unless the member signs a waiver indicating that the member still wishes to withdraw.

Amended by R.2001 d.128, effective April 16, 2001.

See: 33 N.J.R. 204(a), 33 N.J.R. 1205(a).

Neutralized gender references throughout.

Amended by R.2006 d.241, effective July 3, 2006.

See: 38 N.J.R. 1173(a), 38 N.J.R. 2885(a).

In (a), inserted "Retirement"; in (a)2, inserted "or employer"; rewrote (a)3; and in (a)4, added " , unless the member signs a waiver indicating that the member still wishes to withdraw" at the end.

SUBCHAPTER 4. PURCHASES AND ELIGIBLE SERVICE

17:5-4.1 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 system must purchase their requested service in a lump sum.

(b) 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. 43:1-3.

Amended by R.2000 d.114, effective March 20, 2000.

See: 32 N.J.R. 27(a), 32 N.J.R. 1047(b).

In (a), deleted "contributory" following "active" and added the last sentence; and added a new (b).

17:5-4.2 Optional purchases of eligible service

(a) The types of purchases indicated below will be calculated on the basis of the actuarial factor established for the member's age at the time of the purchase times the member's current salary:

1. Former State Police Retirement System membership credit: Service covered by former membership in this system will be included in the computation of retirement benefits in the same manner and value as current service.

All or a portion of the service from a former membership may be included in the purchase of such service.

2. Former membership service established in another State-supported retirement system: Such service cannot be used to qualify for retirement under the minimum service requirements of 20 years at age 50 or "Special Retirement." All or a portion of the service from a former membership may be included in the purchase of such service. This service shall be included in the computation of a retirement allowance on the basis of one percent of final compensation for each year of such service credit.

3. Leaves of absence without pay: A member must request to purchase a leave of absence without pay within one year following the member's return to service. A member may purchase:

i. All or a portion of the period of the leave for personal reasons which is less than three months. Child care is considered a leave for personal reasons.

ii. All or a portion of 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.

Amended by R.2000 d.114, effective March 20, 2000.

See: 32 N.J.R. 27(a), 32 N.J.R. 1047(b).

In (a), in the introductory paragraph, substituted "the member's" for "his"; in 1., inserted "or a portion of" following "All" and substituted "may" for "must"; in 2., deleted "former members of the State Police Retirement and Benevolent Fund" following "to qualify", inserted "or a portion of" following "All", substituted "may" for "must" and added the last sentence; in 3., inserted "without pay:" and added the last two sentences; in 3.i., inserted "or a portion" following "All", substituted "is less than three months." for "does not exceed two months" and added the last sentence; in 3.ii., inserted "or a portion" following "All", deleted "or maternity" following "illness" and added the last sentence.

17:5-4.3 Methods of repayment

(a) Methods of repayment include the following:

1. Lump sum;
2. Partial lump sum; 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; and
5. Direct rollover/trustee-to-trustee transfer of funds: Lump sum payments and partial lump sum payments can include the direct rollover or transfer of tax-deferred contributions from financial plans that qualify under terms specified by the Internal Revenue Service. All payments remitted to the Division must be accompanied by properly completed forms as specified by the Division. Checks remitted to the Division without the required forms shall be returned to the member. A lump sum rollover payment for a purchase cannot exceed the lump sum cost of that