

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), rewrote 1 and substituted "ordinary" for "ordinance" in 4; neutralized gender references throughout.

Case Notes

Injuries sustained by industrial arts teacher when he attempted to break up fight between students were caused by traumatic event, entitling teacher to accidental disability retirement benefits. *Kopack v. Board of Trustees, Teachers' Pension and Annuity Fund*, 96 N.J.A.R.2d (TYP) 243.

Teacher injured while travelling to school at normal time was not entitled to accidental disability pension. *Loftus v. Teachers' Pension and Annuity Fund*, 95 N.J.A.R.2d (TYP) 14.

Accidental disability retirement benefits; slip and fall injury was not shown to be traumatic event. *Catarcio v. Teachers' Pension and Annuity Fund*, 94 N.J.A.R.2d (TYP) 99.

Ordinary disability retirement benefits were properly denied when employee failed to meet service requirement; out-of-state service. *Bewley v. Teachers' Pension and Annuity Fund*, 94 N.J.A.R.2d (TYP) 61.

Student's composition directed at teacher did not warrant accidental disability retirement in absence of actual threat. *Kablesch v. Board of Trustees*, 93 N.J.A.R.2d (TYP) 229.

Elementary school teacher with severe back pain entitled to ordinary disability benefits. *Dilascio v. Board of Trustees of the Teachers' Pension and Annuity Fund*, 92 N.J.A.R.2d (TYP) 105.

Third grade teacher injured while restraining violent student permanently and totally disabled by traumatic event qualifying her for accidental disability retirement benefits. *McCulloch v. Board of Trustees, Teachers' Pension and Annuity Fund*, 92 N.J.A.R.2d (TYP) 66.

Physical assault of teacher constituted a traumatic event within meaning of accidental disability retirement statute. *Malawka v. Teachers' Pension and Annuity Fund*, 92 N.J.A.R.2d (TYP) 21.

17:3-6.8 Option selection

If an applicant for an accidental disability retirement benefit is rejected for an accidental disability benefit but is approved by the Board for retirement, in accordance with N.J.A.C. 17:3-6.7, the applicant will be permitted, within 30 days following Board approval of the retirement, to amend the option selection which the applicant made on the original accidental disability retirement application.

Amended by R.2002 d.352, effective November 4, 2002.
See: 34 N.J.R. 1997(a), 34 N.J.R. 3782(c).

Neutralized gender references throughout.

17:3-6.9 Employer and employee notices

If an applicant for accidental disability retirement is found to be physically or mentally incapacitated for the performance of duty but is rejected for accidental disability retirement because the Board finds that the disability was not a direct result of a traumatic event occurring during and as a result of the performance of the applicant's regular or assigned duties, and if the applicant does not meet the minimum statutory requirements for any other type of retirement allowance, the Fund will notify both the member and the member's employer that the member was found to be physically or mentally incapacitated for the continued

performance of duty, as was previously certified to the Fund.

Amended by R.2002 d.352, effective November 4, 2002.
See: 34 N.J.R. 1997(a), 34 N.J.R. 3782(c).

Deleted the paragraph identifier in (a) and neutralized gender references throughout; deleted (b).

17:3-6.10 Involuntary disability application

(a) If an application for an accidental disability retirement benefit or for an ordinary disability retirement benefit is filed by an employer for one of its employees, the member will be promptly notified by letter that:

1. The member's employer has properly initiated a disability application signed by the Certifying Officer or other designated officer of the employer, on the member's behalf; and
2. The member's employer has submitted a written statement as to the grounds for the employer's request for the member's involuntary disability retirement and all pertinent medical documentation;
3. The member has a period of 30 days to contest the involuntary retirement before the Board acts on the employer's application;
4. The member will be required to appear for an examination before a physician designated to conduct such an examination for the Fund;
5. In the event the Board finds that the member is totally and permanently incapacitated for the performance of duty, the member shall be granted the maximum retirement option, if the member does not file a completed "Application for Disability Retirement" setting forth the retirement option the member desires, before the retirement goes into effect; and
6. In the event the Board finds that the member is not totally and permanently incapacitated for the performance of duty, the employer's application shall be disallowed and the employer shall be informed that the member should be returned to duty.

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.

17:3-6.11 Early retirement; reduction

(a) Retirement with 25 or more years of credited service before the first of the month in which a member attains age 60 shall be classified as "early" retirement unless the member retires on a veteran's retirement allowance.

(b) The statutory reduction of one quarter of one percent applies to each month prior to the month in which the member attains age 55 and for the month in which the member attains age 55 if the member's 55th birthday occurs after the 15th day of the month.

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.1974 d.24, effective January 31, 1974.
 See: 5 N.J.R. 426(d), 6 N.J.R. 124(a).
 As amended, R.1980 d.103, effective March 5, 1980.
 See: 12 N.J.R. 55(b), 12 N.J.R. 224(e).
 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.

Case Notes

Good cause was shown by school teacher who converted his ordinary disability retirement plan to early service retirement. *Steinmann v. State*, Dept. of Treasury, Div. of Pensions, Teachers' Pension and Annuity Fund, 116 N.J. 564, 562 A.2d 791 (1989).

17:3-6.12 Service retirement; eligibility

A member becomes eligible for "Service" retirement 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. 18A:66-43(a) and requests that date.

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.

17:3-6.13 Disability retirant; annual medical examinations

(a) All disability retirants may be required to undergo a medical examination each year for a maximum period of five years by a physician designated by the Fund as of the anniversary date of their retirement, unless such examination requirement has been waived by the Board.

(b) Failure on the part of a retirant to submit to the required medical examination shall result in the automatic suspension of the retirant's retirement allowance until the retirant submits to a medical examination.

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.1980 d.103, effective March 5, 1980.
 See: 12 N.J.R. 55(b), 12 N.J.R. 224(e).
 Amended by R.1998 d.324, effective July 6, 1998.
 See: 30 N.J.R. 1027(a), 30 N.J.R. 2515(a).

In (a), deleted " , under the normal retirement age," following "retirants" and substituted "at least five years or for good cause thereafter" for "a maximum period of five years" in the first sentence, and added a second sentence.

Amended by R.2000 d.236, effective June 5, 2000.

See: 32 N.J.R. 997(a), 32 N.J.R. 2110(a).

Rewrote the section.

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), deleted "under the normal retirement age of 60" following "retirants"; in (b), neutralized the gender references.

17:3-6.14 Disability retirant; annual report (employment, earnings, test and adjustment)

(a) Upon written request from the Division, all disability retirants shall be required to file a report with the Fund which shall include copies of the retirant's IRS 1040 forms and W-2 forms as well as any other proofs of employment requested of a specific retirant indicating the type of employment they are engaged in, if any, and the gross earned income realized therefrom as of December 31 of the prior year.

1. Such report shall be filed with the Fund before the following April 30.

2. Failure on the part of the retirant to file a completed report with the Fund before April 30 shall result in the presentation of the retirant's case to the TPAF Board of Trustees who may impose penalties or suspend the retirant's entire retirement allowance for the period the report is in default.

(b) If a retirant reports employment and earnings, then the following tests shall be made by the Fund to ascertain:

1. If the retirant is engaged in a position subject to coverage by the Fund, the retirement allowance shall be canceled and the retirant shall be reenrolled in the Fund pursuant to N.J.S.A. 18A:66-40c, effective as of the date of the retirant's appointment to such position. Any disability retirement benefits received after this date of appointment shall be refunded to the Fund.

2. If the retirant is engaged in employment and the gross earned income for the preceding calendar year exceeds the difference between the pension and the salary the retirant would have been receiving had the retirant continued to work for the former employer (normal increment steps and salary guide revisions will be considered but no promotional assumptions will be made), an appropriate adjustment to the pension for the period will be made by such difference.

3. If it is found, on or after April 30, that gross earned income for the prior calendar year exceeded the difference between the pension and the salary of the retirant's former position and if the retirant does not refund the excess pension to the Fund within 30 days of notification of the difference, the pension portion of the retirement allowance shall be reduced, dollar for dollar, by the excess earnings. The Board of Trustees shall determine the length of time that the retirant's pension allowance will be reduced.

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.1980 d.103, effective March 5, 1980.

See: 12 N.J.R. 55(b), 12 N.J.R. 224(e).

Amended by R.1998 d.325, effective July 6, 1998.

See: 30 N.J.R. 1028(a), 30 N.J.R. 2515(b).

Rewrote the section.

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.

17:3-6.15 Disability retirements; filing after more than two years' discontinuance of service

(a) Following the filing of a disability retirement application, a vested member, who has not withdrawn his or her contributions from the retirement system, and has discontinued service for more than two consecutive years, and who was otherwise eligible for disability retirement at the time service was discontinued, shall be approved to receive disability retirement benefits by the Board of Trustees, if:

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

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

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

(c) Disability retirements under this rule shall not be effective prior to February 1, 1999.

New Rule, R.1999 d.35, effective February 1, 1999.

See: 30 N.J.R. 3377(a), 31 N.J.R. 459(a).

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

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

Rewrote (c).

17:3-6.16 (Reserved)

Repealed by R.1990 d.283, effective June 4, 1990.

See: 22 N.J.R. 329(a), 22 N.J.R. 1740(c).

Section was "Retirement of members age 71 (correction of age)".

17:3-6.17 Approved allowance

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

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

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

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

17:3-6.18 Option 1 benefit

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

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

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

Inserted "regular" preceding "monthly" and neutralized gender references throughout.

17:3-6.19 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. 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 the member's 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.

New Rule, R.2002 d.352, effective November 4, 2002.
See: 34 N.J.R. 1997(a), 34 N.J.R. 3782(c).

17:3-6.20 Final compensation; 10 and 12-month members reported monthly

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

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

(c) If a member was reported on any combination of 10 and 12-month contract years in such three-year period, the final average compensation shall be determined on a proportional basis.

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.1974 d.24, effective January 31, 1974.
See: 5 N.J.R. 426(d), 6 N.J.R. 124(a).
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.

Case Notes

Applying before retiree's sixtieth birthday precludes special veterans benefits. *Sulzman v. Teacher's Pension and Annuity Fund*, 97 N.J.A.R.2d (TYP) 19.

Teacher's retirement benefits corrected to reflect calculation on proportional basis where teacher worked both 10 and 12-month contract years. *Anderson v. Teachers' Pension and Annuity Fund*, 93 N.J.A.R.2d (TYP) 132.

17:3-6.21 Determination of last year's salary; veterans paid on a monthly basis

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