

Amended by R.1989 d.359, effective July 17, 1989.

See: 21 N.J.R. 980(a), 21 N.J.R. 2055(a).

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

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

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

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

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

Case Notes

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

17:3-4.4 Loan tolerance

Interest will be calculated on a periodic basis on the unpaid loan balance. If scheduled payments are not paid timely, interest will be accrued and added to the remaining outstanding loan balance. If, at the end of the loan sched-

ule, there is a balance of less than \$10.00, it will be written off. If the balance is equal to or greater than \$10.00, the member will be assessed.

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

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

Old rule "loan evaluation" repealed.

17:3-4.5 Approved leave

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

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

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

17:3-4.6 Minimum adjustment

In order to facilitate the reconciliation of a member's account no rebates or additional contributions shall be made where an adjustment involves an amount of \$3.00 or less.

17:3-4.7 Excess contributions

Excess contributions left on deposit in the Annuity Savings Fund under the provisions of N.J.S.A. 18A:66-20 must remain in the fund until the member's death or retirement.

17:3-4.8 Military leave

(a) Military leave contributions remitted by an employer on behalf of an employee, who does not return to the payroll for the minimum 90-day period required by N.J.S.A. 18A:66-34, shall be retained by the fund. Such contributions shall be transferred from the Annuity Savings Fund to the Contingent Reserve Fund. Military leave contributions remitted by an employer shall be based on the employee's salary at the time he entered military service.

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

As amended, R.1973 d.49, effective February 14, 1973.
See: 5 N.J.R. 20(b), 5 N.J.R. 95(b).

Case Notes

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

17:3-4.9 Eligibility for loan

Only active contributing members of the fund may exercise the privilege of obtaining a loan, and the maximum loan shall be 50 percent of the accumulated deductions posted to the member's account.

As amended, R.1973 d.49, effective February 14, 1973.
See: 5 N.J.R. 20(b), 5 N.J.R. 95(b).

17:3-4.10 Waiver required

Any member, who makes application for withdrawal from the fund who may otherwise be eligible to make application for retirement benefits, shall be required to execute and file a statement with the fund setting forth the benefits he is waiving in favor of withdrawal, before his application for withdrawal may be processed.

17:3-4.11 Termination; withdrawal

(a) Under the terms of the statute a member may withdraw from the fund only if he terminates all employment.

(b) No application shall be approved, if:

1. The member is on official leave of absence and his membership is subject to continuance under N.J.S.A. 18A:66.8;

2. The member certifies that his employment contract has not expired, or that he has executed another contract to work in a position subject to TPAF coverage;

3. The member has been dismissed or suspended from employment. In this event, such a member will be eligible to withdraw if he has formally resigned from his position or there is no legal action contemplated or pending and the dismissal has been adjudged final;

4. A multiple member has not terminated employment in all covered positions;

5. The member has a claim pending for Workers' Compensation benefits.

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.1975 d.140, effective May 27, 1975.
See: 7 N.J.R. 179(a), 7 N.J.R. 349(a).
As amended, R.197 d.205, effective May 22, 1979.
See: 11 N.J.R. 208(a), 11 N.J.R. 359(a).

Case Notes

Previous acceptance of pension withdrawal funds deactivates member status and precludes reinstatement of membership account. *Mihalik v. Teachers' Pension and Annuity Fund*, 96 N.J.A.R.2d (TYP) 82.

Teacher's request for reinstatement of former pension membership account denied when teacher's equitable estoppel argument not supported by showing intentional misconduct or misrepresentation. *Kane v. Board of Trustees, Teachers' Pension and Annuity Fund*, 96 N.J.A.R.2d (TYP) 25.

17:3-4.12 Deductions

(a) A full deduction shall be taken for the TPAF in any payroll period in which the member is paid a sufficient amount to make a full normal deduction, plus any other arrears or loan deductions then in effect.

(b) No deduction shall be taken in any pay period in which the employee's salary is not sufficient to cover the required deductions for the TPAF.

As amended, R.1973 d.49, effective February 14, 1973.
See: 5 N.J.R. 20(b), 5 N.J.R. 95(b).

17:3-4.13 Active employment; membership requirement

All employees, otherwise eligible, who are not actively employed on the date of their enrollment, will not be covered by the group life insurance program until they return to service.

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

SUBCHAPTER 5. PURCHASES AND ELIGIBLE SERVICE

17:3-5.1 Eligibility for purchase

(a) Only active members of the Fund shall be eligible to make application for purchase of credit. Active members who are not currently contributing to the Fund 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 letter which quotes the terms of the purchase.

(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. 43:1-3.

Amended by R.1999 d.387, effective November 15, 1999.
See: 31 N.J.R. 2298(a), 31 N.J.R. 3741(a).
Rewrote the section.

Case Notes

Held that purchased service credit based upon out-of-state employment could be applied towards the 20 years service required for veteran's retirement. *Moss v. State Bd. of Trustees, Public Employees' Retirement System*, 178 N.J.Super. 460, 429 A.2d 420 (App.Div.1981).

Educational program specialist's application to purchase service credit was properly denied where application was made three years after deadline. *Willis v. Teachers' Pension and Annuity Fund*, 96 N.J.A.R.2d (TYP) 165.

Correction of error process not applicable to allow purchase of prior service credit where employer refused to stipulate that necessary enrollment information was not provided. *Telerico v. Freehold Regional High School*, 93 N.J.A.R.2d (TYP) 204.

Teacher would not be allowed to purchase pension credit for out-of-state substitute service. *Lillian Solomon v. Board of Trustees, Teachers' Pension and Annuity Fund*, 92 N.J.A.R.2d (TYP) 1.

Teacher, whose employment termination was found wrongful by the Commissioner but chose not to return to employment, held able to purchase pension credits, which she had sought to do before termination, as if her employment had continued through the date of the Commissioner's decision. *Stuermer v. Bd. of Trustees, Teachers' Pension and Annuity Fund*, 2 N.J.A.R. 248 (1980).

17:3-5.2 New enrollment purchases or rates adjustment

(a) Members who file an application for enrollment and indicate they want to purchase the period between their regular appointment and their compulsory date of enrollment will have such purchase calculated on the basis of their net pension rate of contribution and salary as of their date of their regular appointment. If more than one year has elapsed from the date of compulsory enrollment, the purchase of all service will be based on the member's current salary times the full pension rate of contribution.

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

17:3-5.3 Reestablishing military leave credit

Any veteran, who terminated membership before January 1, 1955, and whose withdrawal of contributions included contributions paid by his employer during a period of military leave, shall receive veteran prior service credit for only the period during which he actually contributed. He can receive additional membership credit for the period of his military leave if he redeposits the amount of employer contributions, plus regular interest to the date of his authorization of such purchase.

17:3-5.4 Compulsory purchases

An employee, who was required to enroll and whose application was filed beyond his compulsory date of enrollment, will be required to purchase membership credit retroactive to the date of compulsory enrollment. Purchases will be calculated on the basis of the member's current salary at the full pension rate of contributions assigned as of his compulsory date of enrollment with regular interest.

17:3-5.5 Optional purchases of eligible service

(a) A shared-cost purchase is one in which the member pays only the employee's share and not the employer's share of the purchase. A member may purchase all or a portion of such eligible service. A shared-cost purchase shall 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 in a State-administered retirement system;
2. Former service with any 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 or substitute service as a teacher 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. Childcare 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. Eligible out-of-State public employment, or employment in schools within and outside the United States operated by a department of the United States Government for the instruction of the children of United States Government employees, up to a total purchase of 10 years. This service cannot be used to qualify for an ordinary disability retirement; and

6. Service established under a local municipal or county retirement system within the State of New Jersey.

(b) The types of purchases indicated in (b)1 and 2 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 will then be doubled to establish the full cost to the member. This cost is calculated in this manner as N.J.S.A. 18A:66-13 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; and

2. Employment with the Federal government. Pursuant to N.J.S.A. 18A:66-39(b) U.S. Government service cannot be used to qualify for an ordinary disability retirement.

(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 neither receiving nor 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 $\frac{1}{2}$ greater than service credited as Class A. If Class A credit is purchased, the cost will be $\frac{2}{3}$ 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 $\frac{1}{2}$ of the total contributions that would have been payable based on the member's full Class A contribution rate with regular interest.

As amended, R.1983 d.78, effective March 21, 1983.

See: 14 N.J.R. 1002(b), 15 N.J.R. 449(b).

Language added at (b), 1. re: State-administered retirement systems.

Amended by R.1987 d.47, effective January 20, 1987.

See: 18 N.J.R. 2120(a), 19 N.J.R. 244(a).

benefit raised from $\frac{1}{5}$ to $\frac{1}{6}$ greater.

Amended by R.1999 d.387, effective November 15, 1999.

See: 31 N.J.R. 2298(a), 31 N.J.R. 3741(a).

Rewrote the section.

Case Notes

New Jersey makes no provision for purchase of additional credit for out-of-state employment periods during leaves of absence. *Schuman v. Teachers' Pension and Annuity Fund*, 97 N.J.A.R.2d (TYP) 17.

Rule provision stating that per diem teaching service is not creditable for pension purposes held invalid as inconsistent with statutory provision allowing credit to be purchased for such services (citing former N.J.A.C. 17:3-5.4). *Antonchak v. Bd. of Trustees, Teachers' Pension and Annuity Fund*, 3 N.J.A.R. 83 (1980).

17:3-5.6 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.444, effective August 19, 1991.

See: 23 N.J.R. 1073(a), 23 N.J.R. 2522(a).

In (a)3, deleted class A to B conversions, compulsory and temporary service purchases.

17:3-5.7 Military leave

Any active member purchasing credit for out-of-State service may include in the maximum 10 years' credit to be purchased, his leave of absence for military service, provided he received credit for such leave in the State or local public retirement system in which he was participating at the time he was in military service.

17:3-5.8 Service ineligible for purchase

Service rendered outside of the United States, with the exception of service rendered to a local school board in territories or possessions of the United States, Washington, DC and the Canal Zone, is not purchasable.

Amended by R.1999 d.387, effective November 15, 1999.

See: 31 N.J.R. 2298(a), 31 N.J.R. 3741(a).

Rewrote the section.

17:3-5.9 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 Teachers' Pension and Annuity Fund Law (N.J.S.A. 18A:66-1 et seq.) and the rules of the retirement system.

New Rule, R.1989 d.360, effective July 17, 1989.

See: 21 N.J.R. 980(b), 21 N.J.R. 2055(b).

Provision of immediate credit for service purchased by a lump-sum payment.

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

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

Amended by R.1987 d.10, effective January 5, 1987.

See: 18 N.J.R. 1519(b), 19 N.J.R. 140(b).

Substantially amended.

Amended by R.2001 d.147, effective May 7, 2001.

See: 33 N.J.R. 637(a), 33 N.J.R. 1398(b).

Rewrote the section.

SUBCHAPTER 6. RETIREMENT

Case Notes

17:3-6.1 Applications

(a) Applications for retirement must be made on forms required by the Fund. 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 the application unless a future date is requested. Members enrolled at multiple TPAF 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 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 Fund pursuant to N.J.S.A. 18A:66-40 for those who retired on disability retirements or N.J.S.A. 18A:66-53.2 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 upon 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.

Petition for acceptance of retirement application, filed more than 30 days after retirement date, denied; after notification by Board that disability retirement application was denied and advising petitioner to file for service retirement, which she did not do for three months, petitioner held not entitled to retroactively effectuate retirement application to her actual retirement date (citing former rule). *Sobel v. Bd. of Trustees, Teachers' Pension and Annuity Fund*, 139 N.J.Super. 55, 352 A.2d 585 (App.Div.1976).

Estoppel did not entitle teacher to retroactive retirement date. *Berk v. Teachers' Pension and Annuity Fund*, 93 N.J.A.R.2d (TYP) 348.

Board of Trustees not equitably estopped from correcting erroneous retirement allowance; detrimental reliance not established. *Sgombick v. Board of Trustees, Teachers' Pension and Annuity Fund*, 92 N.J.A.R.2d (TYP) 107.

Reformation of retirement application denied based upon decedent retiree's only partial completion of option change application prior to his death. *Ward v. Bd. of Trustees, Teachers' Pension and Annuity Fund*, 8 N.J.A.R. 60 (1984), affirmed per curiam Docket No. A-4795-83T7 (App.Div.1985).

17:3-6.2 Effective date; changes

(a) A member shall have the right to withdraw, cancel or change an application for retirement at any time before his retirement allowance becomes due and payable; thereafter the retirement shall stand as approved by the Board.

(b) Except in the event of deferred retirement, if a member requests a change in his retirement application before his 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) If the applicant should die within 30 days following the date the Board of Trustees approved the revised application, the member shall be considered to be retired on the basis of the originally approved application for retirement, provided that the initial 30-day requirement was satisfied.

(d) A deferred retirement shall become effective on the first of the month following the member's 60th birthday.

(e) In the case of deferred retirement, if an applicant desires to amend his retirement application, the amended application must be filed with the Fund a minimum of one month prior to his effective date of retirement.

(f) Should the member continue to receive a salary beyond the effective date of retirement after approval of the retirement by the Board of Trustees, no retirement benefits shall be paid for the period where the member received salary and no salary or service credit shall be provided for the service rendered after the approved, effective date of retirement.

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.1975 d.140, effective May 27, 1975.
See: 7 N.J.R. 179(a), 7 N.J.R. 349(a).
As amended, R.1983 d.78, effective March 21, 1983.
See: 14 N.J.R. 1202(b), 15 N.J.R. 449(b).
Subsection (f), added.

Case Notes

Denial of retiree's request to convert ordinary plan to early service retirement was not arbitrary or capricious. Steinmann v. State, Dept. of Treasury, Div. of Pensions, Teachers' Pension and Annuity Fund, 235 N.J.Super. 356, 562 A.2d 799 (A.D.1988) reversed 116 N.J. 564, 562 A.2d 791.

(c) If a member was reported on a biweekly basis on any combination of ten and 12-month contract years, the last year's salary prior to death or retirement shall be determined on a proportional basis. The biweekly pay periods for which no contributions were made shall be counted as zero.

R.1974, d.24, effective January 31, 1974.
See: 5 N.J.R. 426(d), 6 N.J.R. 124(a).
As amended, R.1978 d.104, effective March 21, 1978.
See: 10 N.J.R. 37(c), 10 N.J.R. 176(a).

SUBCHAPTER 7. TRANSFERS

17:3-7.1 Interfund transfers; State-administered retirement systems

(a) The system will transfer membership to any State-administered retirement system as follows:

1. A member, desiring to transfer his or her credits to any State-administered retirement system, must file an application for "Transfer of Membership Credit" in place of the customary application for withdrawal of accumulated contributions. This application will void all possible claims against the present system when approved and the new membership is commenced in the new system.

2. A check covering the member's accumulated contributions, full interest included, less any outstanding loan, shall be drawn payable to the new system for the account of the respective member. Any outstanding loan or arrears obligation will be scheduled for repayment.

3. A statement reflecting the member's status as of the date of transfer shall accompany the check.

4. The member shall enjoy the same service credits established in the present system, subject to the provisions of the new system.

5. This procedure would not apply where a member has credit in the present system for service after the date of enrollment in the new system or where a person has ceased to be a member of the present system before establishing sufficient service credit to be eligible for deferred retirement.

6. A copy of the transfer application, together with a check covering the withdrawal value and a statement of the service credits being transferred, is to be forwarded to the new system.

(b) The new system will cause to be valued the reserves accrued, for such employee as compared to the reserves required in the second 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.

(c) Years of credit will be subject to the benefit formula of the new system after transfer.

(d) A member who makes a timely transfer in accordance with N.J.S.A. 43:2-1 et seq. will contribute to the new system at a rate based on his or her age at the time of enrollment in the present system and no refund of pension contributions will be made except for those contributions made by veterans covering service prior to January 1, 1955, where applicable. The contribution rate for a member granted a deferred retirement in the present system who makes a timely transfer at the time of enrollment in the new system will be determined in accordance with the rules concerning enrollment after deferred retirement in the new system. A member who does not make a timely transfer will contribute to the new system at a rate based on his or her age at the time of enrollment in the new system.

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.1975 d.140, effective May 27, 1975.

See: 7 N.J.R. 179(a), 7 N.J.R. 349(a).

As amended, R.1983 d.78, effective March 21, 1983.

See: 14 N.J.R. 1202(b), 15 N.J.R. 449(b).

Sections 7.1 and 7.2 formerly containing rules on PERS and Police and Firemen's and State Police Retirement Systems, were repealed and replaced with new language covering all state-administered systems. Amended by R.1988 d.122, effective March 21, 1988.

See: 20 N.J.R. 47(a), 20 N.J.R. 672(b).

Added text to (a)5 "has credit in the ..." to replace deleted text "does not make ...".

Added text to (d) "The contribution rate ...".

Correction: Deleted "rate of contribution and" from (a)4.

See: 20 N.J.R. 2482(a).

Cross References

Interfund transfers, accumulated interest, see N.J.A.C. 17:1-12.5.

Case Notes

Former employee not entitled to interfund transfer of credit after more than two year separation from employment, despite ongoing litigation with former employer. *Gilbert v. Board of Trustees*, 93 N.J.A.R.2d (TYP) 107.

17:3-7.2 (Reserved)

R.1983 d.78, effective March 21, 1983.

See: 14 N.J.R. 1202(b), 15 N.J.R. 449(b).

Section deleted.