

**CHAPTER 3**

**TEACHERS' PENSION AND ANNUITY FUND**

**Authority**

N.J.S.A. 18A:66-56.

**Source and Effective Date**

R.1998 d.578, effective November 13, 1998.  
See: 30 N.J.R. 3376(a), 30 N.J.R. 4254(a).

**Executive Order No. 66(1978) Expiration Date**

Chapter 3, Teachers' Pension and Annuity Fund, expires on November 13, 2003.

**Chapter Historical Note**

Chapter 3, Teachers' Pension and Annuity Fund, was filed and became effective prior to September 1, 1969.

Pursuant to Executive Order No. 66(1978), Chapter 3, Teachers' Pension and Annuity Fund, was readopted as R.1983 d.175, effective May 16, 1983. See: 15 N.J.R. 526(b), 15 N.J.R. 930(c). Pursuant to Executive Order No. 66(1978), Chapter 3 expired on May 16, 1988.

Chapter 3, Teachers' Pension and Annuity Fund, was adopted as new rules by R.1988 d.381, effective August 15, 1988. See: 20 N.J.R. 1181(b), 20 N.J.R. 2072(b). Pursuant to Executive Order No. 66(1978), Chapter 3 expired on August 15, 1993.

Chapter 3, Teachers' Pension and Annuity Fund, was adopted as new rules by R.1993 d.658, effective December 20, 1993. See: 25 N.J.R. 4461(a), 25 N.J.R. 5942(a).

Pursuant to Executive Order No. 66(1978), Chapter 3, Teachers' Pension and Annuity Fund, was readopted as R.1998 d.578, effective November 13, 1998. See: Source and Effective Date.

**Law Review and Journal Commentaries**

Battle for state contracts: What process is due in a challenge to a state contract award? Patrick D. Kennedy & Maev E. Cannon, 180 N.J.Law. 16 (Mag.) (Oct./Nov. 1996).

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## SUBCHAPTER 1. ADMINISTRATION

### 17:3-1.1 Board meetings

(a) The Board of Trustees shall meet on the first Thursday of each month or at such time as may be deemed necessary by the Board.

(b) The chairman may call for special meetings when necessary.

(c) The current rules within Roberts' Rules of Order, effective as of April 4, 1994, as well as future amendments thereto, are adopted and incorporated herein by reference as the source to be used by the Board of Trustees of the Teachers' Pension and Annuity Fund in the conduct of its monthly meetings.

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.1982 d.344, effective October 18, 1982.

See: 14 N.J.R. 201(a), 14 N.J.R. 1164(c).

Change of meeting from second to first Thursday of the month.

Amended by R.1994 d.161, effective April 4, 1994.

See: 25 N.J.R. 5762(b), 26 N.J.R. 1537(d).

### 17:3-1.2 Fiscal year

The transaction of business and control of funds shall be conducted on a July 1 to June 30 fiscal year.

Amended by R.2000 d.442, effective November 6, 2000.

See: 32 N.J.R. 2985(a), 32 N.J.R. 3996(b).

Rewrote the section.

### 17:3-1.3 Officers and committees

(a) The members of the Board shall elect a chairman for the forthcoming year at its regular meeting in June.

(b) The chairman of the Board shall preside at all meetings or in the absence of the chairman, such presiding officer as the Board shall determine.

(c) The chairman and the secretary of the Board shall have the power to act for the Board in all matters which may be referred to them by the Board.

(d) There shall be three standing committees of three members each:

1. Finance Committee;
2. Retirement Committee; and
3. Procedures and Policies Committee.

(e) The Committee shall be appointed at the June Board meeting by the chairman elect for the forthcoming fiscal year.

(f) The State Treasurer and the person designated to represent the Fund on the State Investment Council shall serve as members of the Finance Committee.

(g) The Finance Committee shall review all investment transactions and financial reports referred to it by the secretary for presentation to the Board at its regular monthly meeting.

(h) The Retirement Committee shall consider all cases referred to it by the Secretary and submit its recommendations to the Board at its next meeting.

(i) The Procedures and Policies Committee shall consider all cases referred to it by the secretary and submit its recommendations to the Board at its next meeting.

As amended, R.1973 d.49, effective February 14, 1973.

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

### 17:3-1.4 Election of member-trustee

(a) The Board shall hold an annual convention of delegates of the membership of the Fund each year for the purpose of:

1. Electing a member-trustee to the Board of Trustees;
2. Presenting its annual report; and
3. Conducting a general discussion period on any questions concerning the report or matters pertaining to the Fund.

(b) Such convention shall be held annually at a time and location designated by the Board.

(c) The chairman of the convention will be a member of the Board of Trustees elected by the Board.

(d) The secretary of the Board shall act as the secretary of the convention.

(e) The delegates to the convention must be active members of or former members receiving a retirement allowance from the Fund.

(b) In the instance of an active member who died in the performance of duty (accidental death), the initial pension payment will be for the month following the month in which the member died, and the last payment will cover the month immediately preceding the month the survivor dies or ceases to qualify for the continuance of benefits.

As amended, R.1975 d.140, effective May 27, 1975.  
See: 7 N.J.R. 179(a), 7 N.J.R. 349(a).

### 17:3-3.8 Withdrawal application; contributory insurance

A properly executed contributory insurance withdrawal application must be in the possession of the Fund before termination of contributory insurance can be effected. Such withdrawal application cannot be retroactive.

### 17:3-3.9 Withdrawal and return; contributory insurance

(a) Withdrawal from contributory insurance coverage shall apply only to the membership account under which the cancellation was exercised.

(b) A person, who has cancelled his contributory insurance coverage and withdraws from membership in the Fund, shall, upon his subsequent reenrollment in the Fund, be subject to provisions of Section 3.1 (Compulsory and optional enrollment) of this Chapter.

### 17:3-3.10 Ten-month members

A member employed on other than a 12-month contract year will continue to be insured during the summer vacation period provided a *bona fide* employee-employer relationship exists during this period.

### 17:3-3.11 Contributory insurance premiums; leave of absence

(a) Contributory insurance coverage will be in effect while a member is on an official leave of absence without pay for the following reasons:

1. To fulfill a residency requirement for an advanced degree;
2. As a full-time student at an institution of higher education; and
3. Up to 93 days while on an official leave for any other reason, provided insurance premiums are paid in advance of the date the leave was granted.

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

### 17:3-3.12 Beneficiary designation; pension contributions

(a) Only a primary and a contingent designation of beneficiary may be made by the member of the payment of such member's accumulated pension contributions.

(b) Multiple members of a retirement system are required to file new beneficiary forms when the beneficiary nomination on the multiple enrollment forms do not agree.

(c) All beneficiaries must be specifically named. The designation—"children", unless otherwise qualified by the member, shall mean all individuals, including natural or adopted children, entitled to take from the member by the New Jersey law of interstate succession, N.J.S.A. 3A:2A-1 et seq., and excludes all persons who are only stepchildren, foster children, grandchildren or any more remote descendants.

R.1974 d.24, effective January 31, 1974.  
See: 5 N.J.R. 426(d), 6 N.J.R. 124(a).  
As amended, R.1983 d.78, effective March 21, 1983.  
See: 14 N.J.R. 1202(b), 15 N.J.R. 449(b).  
Subsections (b) and (c) added.

### 17:3-3.13 Acceptable designations of beneficiaries

(a) The beneficiary designation on a duly executed retirement application that is filed with and accepted by the Division supersedes any older designation of beneficiary on file. The designation is effective upon acceptance by the Division, even if the retirement date on the application is in the future or the member withdraws the retirement application.

1. The beneficiary or beneficiaries designated on the retirement application for the retirement allowance shall be the beneficiary or beneficiaries for the return of the member's accumulated contributions.

2. If no beneficiary designation is in effect at the time of the member's death, or if no one is named as beneficiary for the retirement allowance, the Division shall pay the benefit to the member's estate.

(b) The beneficiary or beneficiaries of the group life insurance designated on the retirement application shall be the beneficiary or beneficiaries of the active group life insurance.

1. If no beneficiary designation is in effect at the time of the member's death, or if no one is named as beneficiary for life insurance, the Division shall pay the benefit to the member's estate.

New Rule, R.2000 d.101, effective March 20, 2000.  
See: 31 N.J.R. 3930(a), 32 N.J.R. 1046(a).  
Amended by R.2000 d.441, effective November 6, 2000.  
See: 32 N.J.R. 2986(a), 32 N.J.R. 3996(c).

In (a), added "or the member withdraws the retirement application" at the end of the introductory paragraph.

### 17:3-3.14 Benefits payable under P.L. 1984, c.96, as amended by P.L. 1995, c.221

(a) For the purposes of P.L. 1984, c.96, section 1, as amended by P.L. 1995, c.221, section 2, (N.J.S.A. 18A:66-47), the person designated as the beneficiary of an optional settlement on the retirement application may request that a retirement become effective and that a selection

of an optional settlement be made as authorized by the law. If there is no designated beneficiary for an optional settlement, the person designated as the beneficiary to receive the return of contributions or unpaid benefits due to a retiree at the date of death may make this request. If a beneficiary requests that an optional settlement be made, the death benefits payable on behalf of the member shall be the death benefits payable on behalf of a member who dies after retirement as otherwise provided in the Teachers' Pension and Annuity Fund Act, N.J.S.A. 18A:66-1 through 93, as amended and supplemented.

(b) Where a beneficiary of a member requests that a retirement take effect and that a selection of an optional settlement be made as authorized under P.L. 1984, c.96, section 1, as amended by P.L. 1995, c.221, section 2, (N.J.S.A. 18A:66-47), an additional amount of insurance, not to exceed the amount of insurance that could be converted under the group policies for noncontributory and contributory death benefits, shall be paid as claims under the group policies only if the member files an application for conversion of the insurance upon retirement as provided under N.J.S.A. 18A:66-79 and pays the initial premium for the converted insurance. The premiums paid for the converted insurance shall be retained by the carrier and be applied to the premiums payable by the State and the retirement system for benefits provided under the group policies.

New Rule, R.2001 d.375, effective October 15, 2001.  
See: 33 N.J.R. 2401(a), 33 N.J.R. 3670(a).

## SUBCHAPTER 4. MEMBERSHIP

### 17:3-4.1 Creditable salary

(a) Only a member's base or contractual salary shall be subject to pension and group life insurance contributions and creditable for retirement and death benefits in the Fund.

(b) The Board shall reserve the right to question any salary to determine its creditability.

(c) Where it is evident from the record that a salary reported for benefits includes extra compensation, such extra compensation shall be considered not creditable for benefits and all contributions made thereon shall be returned without interest.

(d) Some of the forms of compensation that have been defined as extra compensation are as follows:

1. All forms of bonus or overtime;
2. Extra compensation paid for coaching sports;

3. Retroactive salary adjustment or pay adjustment made within member's final year of service, unless such adjustment was made as the result of an across-the-board pay adjustment for all personnel in the school district;

4. Individual pay adjustment made within or at the conclusion of a member's final year of service;

5. Increment granted for retirement credit or in recognition of the member's forthcoming retirement or in recognition of the member's years of service in the community;

6. Lump sum terminal accumulated sick leave or vacation pay;

7. Individual adjustment made in final year to place member at maximum on salary guide;

8. Additional compensation paid for performing temporary administrative or supervisory assignments such as department head, acting principal and the like;

9. Additional compensation paid for teaching evening, extension or summer school;

10. Additional compensation paid for performing clerical or other sundry duties;

11. Additional compensation paid for working during vacation periods.

(e) All claims involving an increase in compensation of more than 15 percent over that of the previous year, as reported to the pension fund, shall be investigated. Those cases where a violation of the statute is suspect shall be reported to the board.

(f) A member under 62 years of age will receive service credit for that base salary received during the period of his suspension in which he is awaiting a determination by the Commissioner of Education as provided under N.J.S.A. 18A-6.14. Service credit will not be granted for such salary after the first of the month following his attainment of age 62 when that salary will no longer be covered by Social Security.

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.1981 d.30, effective January 27, 1981.

See: 12 N.J.R. 675(d), 13 N.J.R. 162(a).

(f) added.

#### Law Review and Journal Commentaries

Pensions—Teachers. Steven P. Bann, 133 N.J.L.J. No. 11, 54 (1993).

#### Case Notes

High school teachers acting as department chairpersons were not temporary employees so compensation received was creditable. *Siri v. Board of Trustees of Teachers' Pension and Annuity Fund*, 262 N.J. Super. 147, 620 A.2d 440 (A.D.1993).

Additional half-day of work performed by high school psychologist was not temporary so the extra salary was creditable for pension purposes. *Siri v. Board of Trustees of Teachers' Pension and Annuity Fund*, 262 N.J.Super. 147, 620 A.2d 440 (A.D.1993).

Merit increase not a bonus for pension calculation purposes. *Farrah v. Teachers' Pension and Annuity Fund*, 93 N.J.A.R.2d (TYP) 69.

Petition for pension credit for payment received for services rendered as high school department chairman denied based upon finding that payment did not take the form of salary and was classified as extra compensation in petitioner's employment contract (also citing former N.J.A.C. 17:3-29). *Bishop v. Bd. of Trustees, Teachers' Pension and Annuity Fund*, 4 N.J.A.R. 179 (1980).

#### **17:3-4.2 Leave with pay**

If a member is granted a leave of absence during the course of a school year with sufficient salary to cover a full normal contribution, including any arrears or loan payments, the privilege of the member to obtain credit for such leave shall not extend beyond six months. If the leave with pay extends beyond six months, the member will receive credit and will be required to make contributions only if he is receiving 50 percent or more of his regular base or contractual salary.

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

#### **17:3-4.3 School year members**

(a) Members whose salaries for a school year are considered as a full year's compensation shall be given service credit in the proportion that the time employed bears to the duration of the school year, but not more than one year's credit shall be given during any consecutive 12 months.

(b) If a member terminates a position that requires less than 12 months to constitute one full year of service at the end of the normal academic school year and accepts a 12 month position with the same employer or another employer that participates in the Teachers' Pension and Annuity Fund and begins employment on or before the date that was established by the previous year's contract position. Such member will receive service credit within the Teachers' Pension and Annuity Fund for the period between the end of the previous contract and the employment date of the new 12 month position.